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2009



FALL

Report of the  
**Auditor General  
of Canada**  
to the House of Commons

Matters of Special Importance  
Main Points—Chapters 1 to 8  
Appendices



Office of the Auditor General of Canada



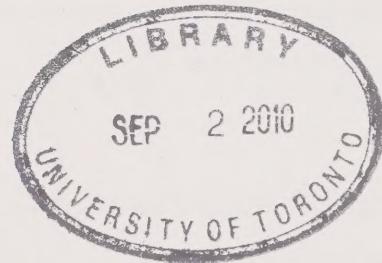
# 2009



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Matters of Special Importance  
Main Points—Chapters 1 to 8  
Appendices



Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises *Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters*. The main table of contents for the Report is found at the end of this publication.

The Report is available on our website at [www.oag-bvg.gc.ca](http://www.oag-bvg.gc.ca).

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Auditor General of Canada  
Vérificatrice générale du Canada

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To the Honourable Speaker of the House of Commons:

I have the honour to transmit herewith this 2009 annual report to the House of Commons, which is to be laid before the House in accordance with the provisions of subsection 7(3) of the Auditor General Act.

*Sheila Fraser*

Sheila Fraser, FCA  
Auditor General of Canada

OTTAWA, 3 November 2009



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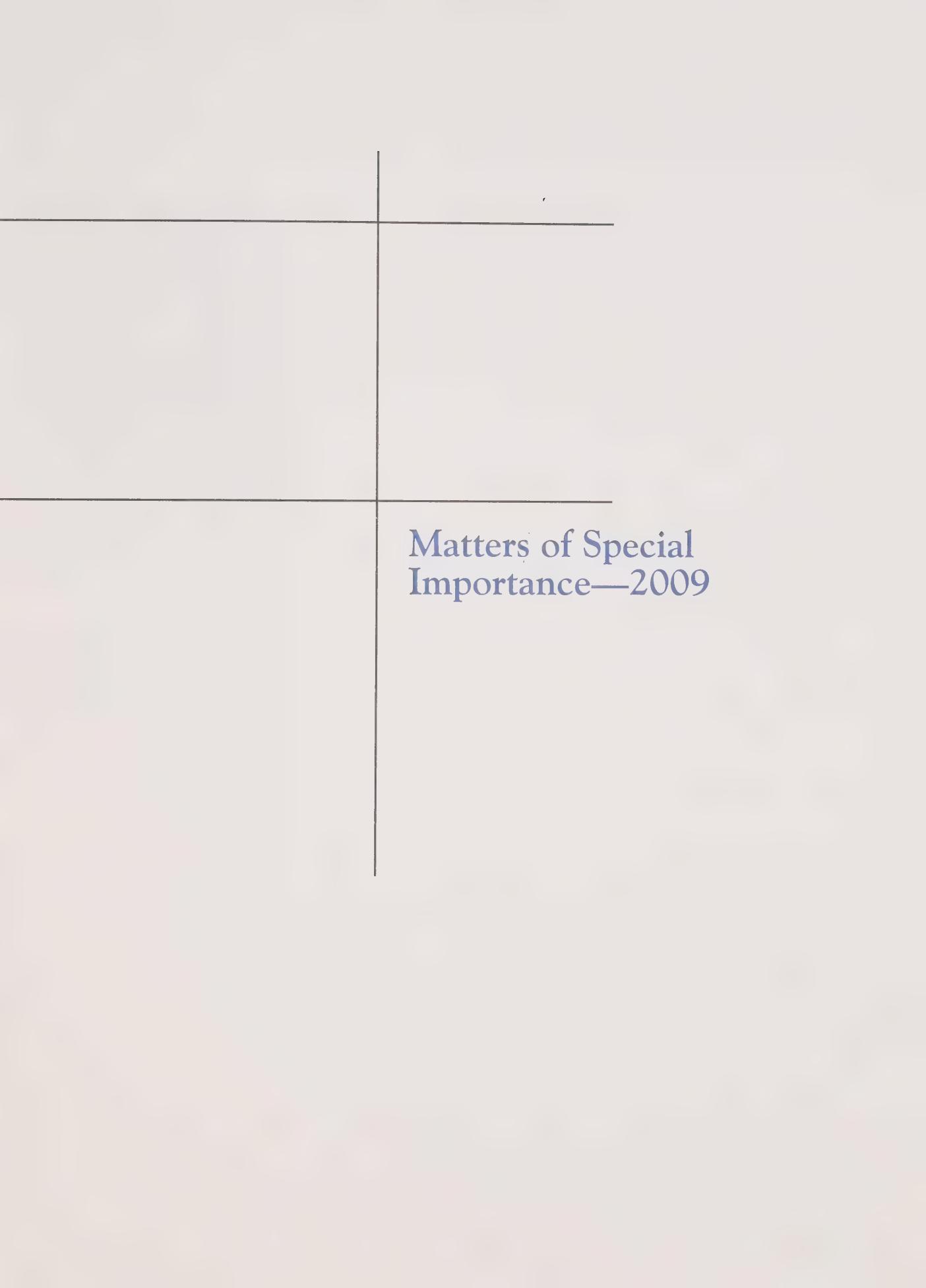
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Matters of Special  
Importance—2009



# Matters of Special Importance—2009



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Sheila Fraser, FCA  
Auditor General of Canada

I am pleased to present my 2009 Fall Report to the House of Commons. The Commissioner of the Environment and Sustainable Development is also presenting a report.

This Report addresses a wide range of issues typical of the challenges facing government today:

- coordinating appropriate responses to emergencies, such as pandemics and terrorist attacks;
- selecting foreign workers at a time when industrialized countries are competing to attract qualified labour;
- providing effective international aid;
- supporting the transition to electronic health records;
- increasing First Nations' control over land management as a critical component of their future well-being;
- buying military vehicles to protect our troops in Afghanistan from improvised explosive devices;
- ensuring that income tax legislation is clear and up to date; and
- knowing whether government programs are achieving their intended results or need to be adjusted.

The Main Points from our chapters on all of these issues are included at the end of these comments.

While the issues are diverse, a common message emerges in several of our chapters: how important it is, when the government designs programs, develops policies, and makes commitments, that it fully analyze the practical challenges of implementing them successfully. Our findings show that this is not always the case.

Despite good intentions, there are examples of policies adopted, programs launched or changed, and commitments made without a full analysis of the risks involved, the resources needed, the potential impact on other players, and the steps required to achieve the desired results. We also see examples where there is no long-term vision or strategy to guide a department's overall programming, and others where there is no ongoing evaluation of program effectiveness. The result can be a fragmented approach to programming in response to a problem of the day, creating other problems that were not anticipated.

A prime example is immigration programming, described in **Chapter 2, Selecting Foreign Workers Under the Immigration Program**.

Canada has an ongoing need for permanent and temporary workers with various skills, and it must compete with other countries to attract them. It is critical that the government's programs to facilitate the entry of these workers into Canada be designed to meet the needs of the Canadian labour market.

We found that Citizenship and Immigration Canada (CIC) has made a number of key decisions without first properly assessing their costs and benefits, potential risks, and potential impacts on other programs and delivery mechanisms. For example, program changes in recent years have resulted in a significant shift in the types of workers being admitted permanently to Canada. We saw little evidence that this shift is part of any clear strategy to best meet Canada's labour needs. A strategic roadmap for the future, such as the national framework the Department committed to develop in 2004, would help to provide a clear vision of what each program is expected to contribute to the economic objectives for immigration.

In addition, the Department did not carry out sufficient analysis to support its strategy for reducing the inventory of applications to enter Canada under the federal skilled worker category. While it is too early to assess their full impact, there are indications that the measures taken might not have the desired effect.

This chapter also provides an example of how not fully considering the way a policy will be carried out can lead to problems in implementing it. The Immigration and Refugee Protection Regulations state that before issuing a work permit to a temporary foreign worker, a CIC officer must assess, on the basis of an opinion provided by Human Resources and Skills Development Canada (HRSDC), if the job offer is genuine and not likely to negatively affect the labour market in Canada.

The Regulations state the factors to consider in assessing labour market effects but are silent on how to assess whether a job offer is genuine. We found that CIC and HRSDC—who co-manage temporary foreign worker programs—were not clear about their respective roles in making this assessment and how it is to be done. As a result, work permits could be issued for jobs or employers that do not exist.

**Chapter 7, Emergency Management**, also illustrates the practical challenges of implementing policies. Public Safety Canada is the coordinating agency for federal emergency management activities. The aim is to provide a federal focal point to eliminate potential

confusion when responding to crises such as the H1N1 pandemic, widespread forest fires, and the 1998 ice storm in Eastern Canada.

The expertise and experience to deal with various aspects of emergencies reside in several departments, and it is up to each department to determine in accordance with its mandate how it will address an emergency. Under the *Emergency Management Act*, however, Public Safety Canada has the responsibility to coordinate the emergency management activities of federal government institutions along with those of the provinces and territories.

We found that it is not yet clear how Public Safety Canada will carry out these responsibilities, as the Federal Emergency Response Plan has not been adopted and endorsed by the government and the federal departments involved. Therefore, it is not clear how, in practice, Public Safety Canada will reconcile its role as the focal point for federal action in a crisis with its lack of authority to dictate what other departments will do, given the principle that departments are accountable to their own ministers.

The Department also has the responsibility to promote a common approach to emergency management, including the adoption of standards and best practices. We noted that emergency first responders—police officers, firefighters, and medical and ambulance crews—are limited in their ability to communicate and work together in an emergency because their voice communication systems, such as radios, are not compatible. Public Safety Canada officials told us that their role is not to develop standards but rather to assist groups in developing their own—and very little progress has been made to date. It is not clear how helping groups develop their own standards would promote a common approach.

In addition, we were told by officials that while the Department can provide advice and coordination, it is up to operational departments to identify Canada's critical infrastructure and determine how it should be protected before a coordinated approach can be implemented. However, Public Safety Canada has provided no advice to departments to ensure that they do this.

Public Safety Canada has made some progress, slowly, in the areas of strategy, framework, and plan development. However, until it clarifies what its responsibility for coordination means in practical terms, it is unclear to us—and to some of the departments that have asked it for guidance—what concrete steps it would take to coordinate federal action in the event of an actual emergency of national significance.

In **Chapter 8, Strengthening Aid Effectiveness**, we note that in the absence of a comprehensive strategy to guide the aid efforts of the Canadian International Development Agency (CIDA), plans and priorities often change before they are fully implemented.

CIDA's 2002 Policy Statement on Strengthening Aid Effectiveness commits it to principles of aid effectiveness adopted by the international donor community: align efforts with recipients' needs and priorities; harmonize activities with those of other donors; and use new forms of aid known as program-based approaches, in which donors coordinate support to the budgets of recipient governments or local organizations for a development program delivered using local systems and procedures. The international donor community has agreed that applying these principles improves the effectiveness of aid.

In the countries we examined, we found that CIDA is working with other donors to apply the principles of aid effectiveness. We were told by donors and by officials of recipient governments that CIDA staff in the field are highly regarded and their efforts are appreciated.

In examining corporate management processes, however, we found that while some action was taken to align programming with the principles of aid effectiveness, the actions were selective and not guided by a comprehensive strategy. In some cases, initiatives were begun but not tracked to completion. In other cases no action plans were developed at all. There is little evidence that senior managers systematically reviewed the implementation of the 2002 Policy Statement. Shifting priorities and a lack of clear direction and action plans led to a situation in which donors, recipient governments, and CIDA program staff are unclear about the Agency's direction and long-term commitment to specific countries or regions.

The international donor community has recognized that the long-term nature of international development requires stability and predictability of programming. In our view, frequent changes in policy direction and substantial turnover of senior personnel in recent years have posed significant challenges for CIDA's aid effectiveness agenda.

The challenges of supporting the implementation of electronic health records nationwide are discussed in **Chapter 4, Electronic Health Records**. The audit looked at Canada Health Infoway (Infoway), a not-for-profit corporation created to lead the national development of electronic health records (EHRs) with funding from Health Canada. We found that Infoway has accomplished much in the eight years since it was created.

Developing and implementing EHRs that are compatible across Canada requires national leadership and the collaboration of many stakeholders, including health care professionals. Chapter 4 notes that while Infoway has met a number of important challenges, others remain. While our discussion of future challenges is not based directly on our audit work, we have raised them to indicate the magnitude of the efforts still needed.

For example, Infoway has set a goal of having EHRs for 50 percent of Canadians available to their authorized health care professionals by 2010. However, by 31 March 2009, only 17 percent of Canadians were living in a province or territory where a complete EHR system was available.

Further, not all completed EHR projects have implemented the standards required for national compatibility. According to Infoway, some of them will do so only when they are upgraded in the future. It is not clear who will provide the funding for this, and when.

Infoway, Health Canada, and the provinces and territories need to carefully consider how these and other challenges can be met so the EHR initiative can deliver the intended results.

The process of developing new programs or making changes to existing ones can benefit significantly by using information from effectiveness evaluations, as discussed in **Chapter 1, Evaluating the Effectiveness of Programs**.

Done well, effectiveness evaluations provide reliable, objective information that helps identify programs that are working as intended, those that are no longer needed, and those that are not achieving their objectives and could be replaced by programs that will achieve them more cost-effectively.

Unfortunately, the history of program evaluation in the federal government shows a poor record of implementation. After four decades of effort, evaluations are still not providing enough reliable evidence about whether program objectives are being met. In the absence of such information, it is difficult for departments to identify problem areas and correct them in order to make their programs more effective.

Our chapter on selecting foreign workers notes that evaluations of the programs we audited are either outdated or have not been done at all. Consequently, not only are CIC and HRSDC unable to determine to what extent the programs are meeting their objectives and achieving

the expected outcomes, they are missing valuable information that could have been used in the recent past and could be used in the future when changing programs or designing new ones.

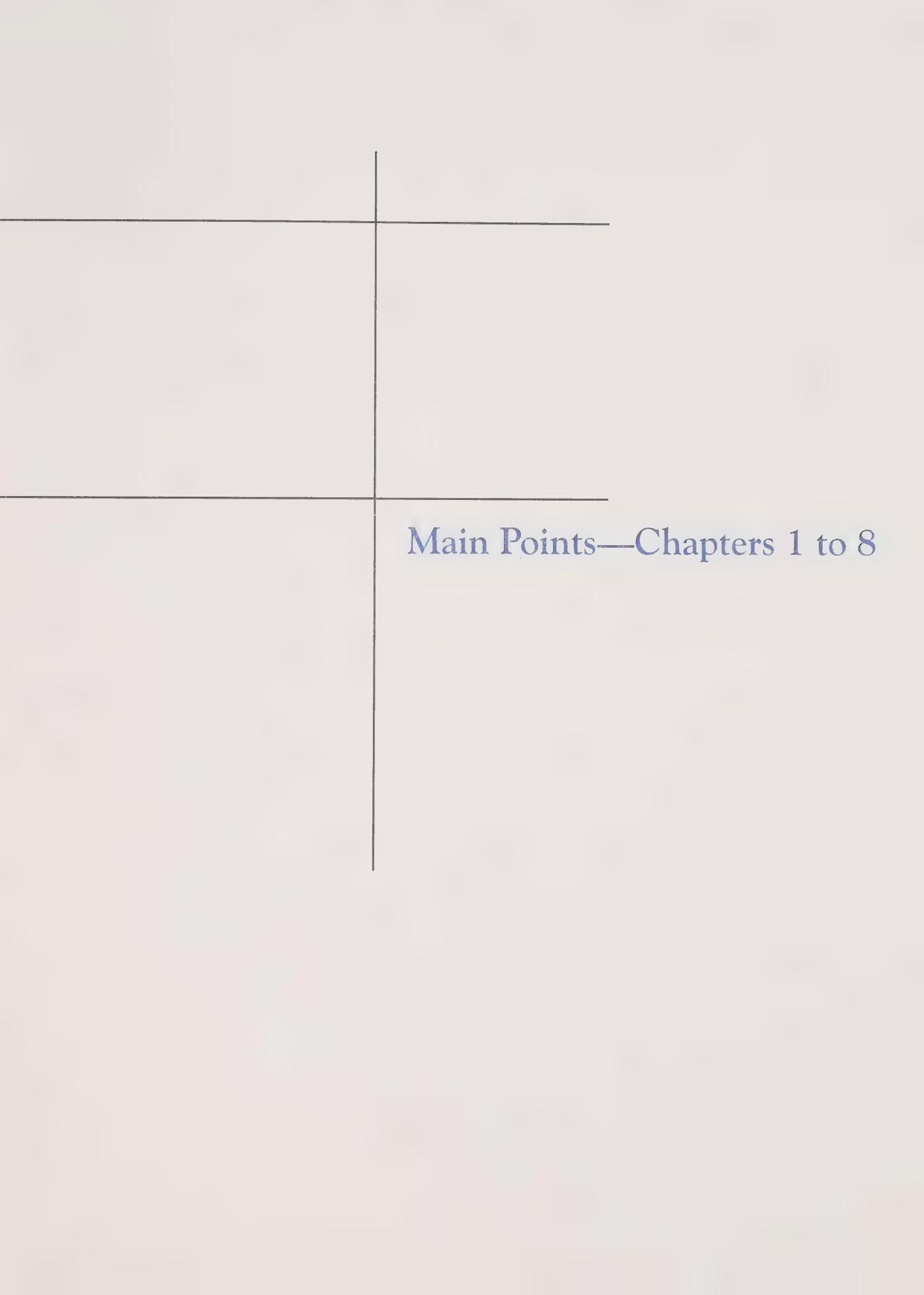
The departments we examined have concerns about their capacity to implement the requirement in the 2009 Policy on Evaluation that all direct program spending be evaluated. An earlier requirement to evaluate all grant and contribution programs had already taxed their capacity. In our view, identifying programs where effectiveness information can be put to the best use will be a key part of implementing the coverage requirements of the policy.

### Conclusion

Our findings this year underscore the importance of thinking through the implementation challenges when policies and programs are developed or changed. Having a complete picture of what needs to be done, by whom and when, how much it will cost, what risks are involved, how other programs might be affected, and what has or has not worked well to date, can make the difference between a program that meets its objectives and one that does not, one that delivers results for Canadians and one that does not. Several of our recommendations to departments address these issues.

I hope members of Parliament will find this report useful in holding the government to account for its management of public funds and its delivery of services to Canadians. I look forward to continuing to work with parliamentary committees as they review the results of our audits.

As always, I wish to thank my colleagues and staff for their effort and their ability to deal with the many challenges we face together.



Main Points—Chapters 1 to 8





# Evaluating the Effectiveness of Programs

## Chapter 1

### What we examined

### Main Points

Effectiveness evaluation is an established tool that uses systematic research methods drawn from many different disciplines to assess how well a program is achieving its objectives. When done well, it allows departments to develop evidence to determine how well their programs meet expectations, and whether they are cost-effective. Over the past 40 years, the federal government has made efforts to embed the management practice of evaluating program effectiveness, as an essential part of its support for program evaluation.

The 2006 *Federal Accountability Act* enacted into law a requirement that all grant and contribution programs be evaluated every five years. The new Policy on Evaluation that came into effect in 2009 extends the requirement for evaluation to cover all direct program spending over a five-year cycle.

We examined how evaluation units in six departments identify and respond to the various needs for effectiveness evaluations. We also looked at whether they have built the required capacity to respond to those needs. In addition, we looked at the oversight and support role of the Treasury Board of Canada Secretariat in monitoring and improving the evaluation function in the government, specifically with respect to effectiveness evaluations. The period covered by our audit was 2004 to 2009.

### Why it's important

Governments are under continual pressure to spend money on a range of programs designed to serve particular needs of society. While many factors affect the decisions that governments must ultimately make about programs, effectiveness evaluations can aid their decision making by providing objective and reliable information that helps identify programs that are working as intended; those that are no longer needed; and those that are not accomplishing the desired objectives and could be replaced by programs that will achieve the objectives more cost-effectively. In addition, effectiveness evaluation is expected to serve the information needs of parliamentarians.

One of the most important benefits of effectiveness evaluation is to help departments and agencies improve the extent to which their programs achieve their objectives. Departments need to demonstrate to Parliament and taxpayers that they are delivering results for Canadians with the money entrusted to them.

### What we found

- The six departments we examined followed systematic processes to plan their effectiveness evaluations and completed most of the evaluations they had planned. However, over the audited period, each department's evaluations covered a relatively low proportion of its total program expenses—between five and thirteen percent annually across the six departments.
- In effect, the rate of coverage was even lower because many of the effectiveness evaluations we reviewed did not adequately assess program effectiveness. Often departments have not gathered the performance information needed to evaluate whether programs are effective. Of the 23 evaluation reports we reviewed, 17 noted that the analysis was hampered by inadequate data, limiting the assessment of program effectiveness.
- The departments we examined told us that it remains a challenge to find experienced evaluators, and they have made extensive use of contractors to meet requirements. Departments expressed concern about their capacity to start in 2013 to evaluate all direct program spending, as required by the 2009 Policy on Evaluation. To ensure full coverage (which includes grants and contributions), they will have to evaluate an average of 20 percent of their direct program spending each year of the five-year cycle.
- The Treasury Board of Canada Secretariat introduced initiatives over the past few years to address the need for improvements in evaluation across the government. However, it did not provide sustained support for effectiveness evaluation. In particular, it made little progress on developing tools to assist departments with the long-standing problem of a lack of sufficient data for evaluating program effectiveness.
- With the exception of Environment Canada, which has processes in place to identify needed improvements, the audited departments do not regularly identify and address weaknesses in effectiveness evaluation.

**The Secretariat and the departments have responded.** The Treasury Board of Canada Secretariat and the departments agree with our recommendations. Their detailed responses follow each recommendation throughout the chapter.



# Selecting Foreign Workers Under the Immigration Program

## Chapter 2

### Main Points

#### What we examined

In Canada, the federal government and the provinces and territories share jurisdiction over immigration. Citizenship and Immigration Canada (CIC) is generally responsible for the selection of immigrants and other foreign nationals and for ensuring that they are admissible—that is, that they do not present any risk to the health and safety of Canadians. The Department has also signed agreements with most provinces and territories allowing them to play an active role in selecting immigrants to meet the specific needs of their labour markets.

In 2008, Canada admitted about 250,000 people as permanent residents, including about 150,000 individuals and their immediate family members selected on the basis of attributes that would enable them to succeed in a dynamic labour market, such as education, professional experience, and official language ability. In addition, Canada allowed almost 370,000 temporary foreign workers in 2008 to fill a short-term need for labour.

We examined how CIC plans for and manages programs designed to facilitate the entry of permanent and temporary workers into Canada and the recognition of foreign credentials in Canada. In addition, we looked at the role of Human Resources and Skills Development Canada (HRSDC) in supporting the planning and delivery of these programs, including the issuance of labour market opinions by its Service Canada offices. The audit covered the period from June 2002, when the *Immigration and Refugee Protection Act* came into effect, to 30 June 2009.

Our audit did not cover how CIC assesses whether applicants are admissible to Canada or how the provinces and territories nominate candidates for selection. Nor did we examine the Canada Border Services Agency's processing of work permit applications at points of entry into Canada.

#### Why it's important

Immigration has played an important role in the economic, social, and cultural development of Canada throughout our history. Its role is just as important today, given our aging population and labour force.

Canada has an ongoing need for permanent workers with various skills and must compete with other countries to attract them. In addition, Canada has a need for various types of temporary workers to address short-term needs of the labour market, which vary from year to year and from region to region of the country.

It is critical that the government's programs to facilitate the entry of permanent and temporary workers be designed and delivered in a way to ensure that the right people are available at the right time to meet the needs of the Canadian labour market. The choices that are made now will affect the kind of society Canada has in the future.

### What we found

- Although CIC followed a sound decision-making process in 2008 to design the Canadian Experience Class (a category of skilled foreign workers and students with Canadian work experience), the Department has made other key decisions without properly assessing their costs and benefits, risks, and potential impacts on other programs and delivery mechanisms. Program changes in recent years have resulted in a significant shift in the types of workers being admitted permanently to Canada under the immigration program's economic component. We saw little evidence that this shift is part of any well-defined strategy to best meet the needs of the Canadian labour market.
- The inventory of applications in the Federal Skilled Worker category has almost doubled since our 2000 audit and, in December 2008, represented more than 620,000 people waiting an average of 63 months for a decision on whether they would be admitted. Measures taken by CIC in 2008 to limit the number of new applications—for example, processing only those that meet new, more narrowly defined criteria—were not based on sufficient analysis of their potential effects. While it is too early to assess their full impact, trends in the number of applications received since the beginning of 2009 indicate that they might not have the desired effect, and CIC could be unable to process new applications within the 6 to 12 months it has forecast. Furthermore, CIC does not know and has not defined how much time it should take to clear the inventory of applications on hand when the measures were introduced.
- CIC and HRSDC have not clearly defined their respective roles and responsibilities in assessing the genuineness of job offers and how that assessment is to be carried out. As a result, work permits could be issued to temporary foreign workers for employers or jobs that do not exist. In addition, there is no systematic follow-up by either

department to verify that in their previous and current employment of temporary foreign workers, employers have complied with the terms and conditions (such as wages and accommodations) under which the work permits were issued. This creates risks to program integrity and could leave many foreign workers in a vulnerable position, particularly those who are physically or linguistically isolated from the general community or are unaware of their rights. Furthermore, weaknesses in the practices for issuing labour market opinions raise questions about the quality and consistency of decisions being made by HRSDC officers.

- CIC has successfully introduced a number of initiatives and tools to address some of the inefficiencies we reported in 2000 in its processing of applications in missions overseas. However, efficiency gains will be seriously limited until an information technology system that has been under development for almost 10 years is implemented in missions abroad and CIC makes effective use of available technologies. In the meantime, employees in missions abroad are still buried in paperwork and spending a great deal of their time on clerical tasks. In addition, while the Department has developed a quality assurance framework that is available to all missions, immigration program managers are not required to use it or to report on quality assurance. Therefore, CIC still has little assurance that overall, decisions by visa officers are fair and consistent.

**The entities have responded.** The entities agree with all of the recommendations. Their responses follow each recommendation throughout the chapter.



# Income Tax Legislation

## Chapter 3

## Main Points

### What we examined

The Department of Finance Canada is responsible for formulating tax policy at the federal level and for developing the legislation and regulations needed to implement federal tax measures. In the past, the Department has developed legislative amendments to address technical deficiencies in the *Income Tax Act*, in order to more clearly convey the intent of the legislation or to make it easier for taxpayers to comply with it. Packages of technical amendments have first been released for public comment and then tabled in Parliament in the form of a technical bill. Usually these amendments do not involve any reconsideration of tax policy.

The Canada Revenue Agency is responsible for applying and interpreting the *Income Tax Act*—one of the longest and most complex pieces of Canadian legislation. The primary goal of the Agency as Canada’s tax administrator is to ensure that taxpayers comply with their obligations and that Canada’s tax base is protected.

We looked at how the Department of Finance Canada develops technical amendments for tabling in Parliament; we did not examine the process for developing legislative amendments that involve changes in tax policy.

In addition, we examined how the Canada Revenue Agency provides taxpayers and its tax auditors with guidance on the application and interpretation of the *Income Tax Act*, and how it assists the Department of Finance Canada in-identifying and developing technical changes that may be needed in the legislation. The audit covered the period from 2004 to 2009, with relevant historical information reviewed back to 1973.

### Why it’s important

Canada’s tax system relies on taxpayers to self-assess and pay the income taxes they owe. According to the Canada Revenue Agency, most taxpayers will meet their tax obligations if given the proper tools and information.

Taxpayers’ ability to comply with tax legislation depends on their understanding of how the rules apply to their own circumstances.

When the intent of the legislation is not clearly conveyed by the words, taxpayers may find it difficult to assess the income taxes they owe and this could foster tax avoidance. Uncertainty about how the law should be applied can also add to the time taken and costs incurred by tax audits and tax administration.

## What we found

- No income tax technical bill has been passed since 2001. Although the government has said that an annual technical bill of routine housekeeping amendments to the Act is desirable, this has not happened. As a result, the Department of Finance Canada has a backlog of at least 400 technical amendments that have not been enacted, including 250 “comfort letters” dating back to 1998, recommending changes that have not been legislated.
- Department of Finance Canada staff are well-informed about the identified issues, but they do not make effective use of available electronic tools to record, track, and prioritize them for possible legislative amendment.
- The Agency’s processes for tracking and monitoring issues in the Act are not adequate. The Agency has no formal database to keep track of the identified legislative issues and their disposition. Issues are validated, and analysis of some of them is carried out. However, there is no systematic review of their impact on compliance or on the tax base. As part of the annual Budget process, the Agency selects a relatively small number of outstanding issues as priorities for communication to the Department, based on the assessment of senior Agency officials.
- The Agency provides guidance to taxpayers and tax practitioners in the form of advance income tax rulings, technical interpretations, Income Tax Interpretation Bulletins, as well as tax guides and pamphlets, to name a few. Tax practitioners we interviewed value the rulings process. However, in the past three years, the Agency has not met its timeliness standard for issuing advance income tax rulings. In addition, some of the information in the Agency’s Income Tax Interpretation Bulletins is no longer current and the public is not always made aware of that fact.

**The Agency and the Department have responded.** The Agency and the Department agree with all of our recommendations. Their detailed responses follow each recommendation throughout the chapter.



# Electronic Health Records

## Chapter 4

### What we examined

### Main Points

Canada Health Infoway Inc. (Infoway) was created in 2001 as a federally funded, not-for-profit corporation to lead the national development of electronic health records (EHRs). Infoway's goal is to ensure that, by 2010, every province and territory and the populations they serve will benefit from new health information systems that will help transform their health care system. Furthermore, Infoway's stated goal is that 50 percent of Canadians will have their electronic health record available to their authorized health care professionals by 2010, and 100 percent by 2016.

Health Canada transfers funds to Infoway based on funding agreements that specify the obligations of each party. Infoway has been granted \$1.6 billion by the federal government. Infoway has allocated \$1.2 billion to invest jointly with the provinces and territories in projects to accelerate the development and use of compatible EHRs across Canada, and \$400 million for other related priorities. It is the role of the provinces and territories to propose the projects to Infoway for funding and to implement them. Thus, Infoway's ability to achieve key outcomes in its funding agreements depends on the collaboration of the provinces and territories.

We examined how Infoway manages funds from the federal government to achieve its goal of making compatible electronic health records available across Canada. In addition, we looked at the role of Health Canada, the sponsoring department, in ensuring that Infoway complies with the agreements under which it receives funding from the Department. For the most part, the audit focused on the fiscal years 2006–07 and 2007–08. Audit work for this chapter was substantially completed on 30 April 2009.

Concurrent with our audit, six provincial audit offices audited how electronic health records funded by Infoway and/or provincial governments are being implemented in their respective provinces. The provincial audit offices will each report separately; a joint summary report on all of the audits will be issued in 2010.

## Why it's important

Electronic health records (EHRs) are intended to offer solutions to a number of persistent problems in Canada's health system, some of which can be attributed to the use of paper-based health records. With EHRs, it is expected that health care professionals would be better able to share patient information, thus avoiding unnecessary or duplicate diagnostic tests, multiple prescriptions, and the risk of adverse drug reactions. Ultimately, the use of EHRs could reduce patient wait times, reduce costs, and save lives. From its inception in 2001 until 31 March 2009, Infoway had spent \$614.9 million on this initiative, and had committed an additional \$614.2 million, for a total of \$1.2 billion. Some experts have estimated the total cost of implementing EHRs Canada-wide at over \$10 billion, and Infoway concurs.

## What we found

- Infoway has accomplished much in the eight years since its creation. Using the funding agreements with Health Canada as a starting point, Infoway developed an approach to providing for compatible electronic health records by identifying the key requirements and components of an EHR and developing a blueprint for the design of health information systems. It consulted widely with partners and stakeholders to obtain their input and support. In addition, it established appropriate governance mechanisms and developed a risk management strategy. It has implemented appropriate management controls for operational spending, although controls for contracting for goods and services need to be strengthened.
- In the 29 EHR projects we examined, Infoway had ensured that provinces and territories designed the projects to comply with requirements such as its blueprint and standards. It had also identified project-specific risks and was monitoring them, as well as other problems that arose during the life of the project. However, Infoway has not obtained the results of conformance testing on EHR systems. This means it does not have sufficient assurance that standards have been implemented as required.
- Infoway has made considerable efforts to report on the progress of the EHR initiative. It reports progress toward its 2010 goal as the percentage of Canadians living in provinces or territories where an EHR is available to their health care professionals. However, it has not reported on other indicators of progress, such as the extent to which completed systems meet requirements for compatibility. Nor does it report on the adoption or use of completed systems by health care professionals, although it considers low adoption rates a serious risk to the EHR initiative.

- As the sponsoring department, Health Canada periodically obtains assurance through audits and evaluations that Infoway is complying with the funding agreements. However, at the time of the audit, the Department still had not fully developed the monitoring framework it approved in 2008 to manage risks associated with such large amounts of funding and to strengthen ongoing monitoring of the Corporation.

**The entities have responded.** The entities agree with all of our recommendations. Their detailed responses follow the recommendations throughout the chapter.



# Acquiring Military Vehicles for Use in Afghanistan

## Chapter 5

### What we examined

### Main Points

Canada's military role in Afghanistan has been to contribute to international security and, in particular, to contribute to the stability of the area. National Defence has had to acquire new equipment urgently needed by the Canadian Forces to carry out their operations effectively and protect their personnel.

We examined four urgent projects, each costing over \$100 million, to acquire military vehicles that would improve operational capability and the protection of soldiers in Afghanistan. The projects involved replacement tanks, armoured patrol vehicles, armoured heavy support vehicles, and light armoured vehicles with remote weapon stations.

We examined how National Defence managed the projects to ensure that the acquisitions met government policies related to project management and that the vehicles it was purchasing would meet the Canadian Forces' urgent operational needs. We also examined how National Defence and Public Works and Government Services Canada (PWGSC) worked together to ensure that the contracting for the projects complied with government policies.

In addition, we looked at the analysis and challenge role played by the Treasury Board of Canada Secretariat when project and contract proposals were submitted for Treasury Board approval.

Audit work for this chapter was substantially completed on 29 May 2009.

### Why it's important

The Canadian Forces' current deployment to Kandahar, Afghanistan has increased the risk to military and civilian personnel caused by threats such as improvised explosive devices. Failure to respond adequately and rapidly to these threats can have serious consequences—for example, it could leave the troops at greater risk or force Canada to adjust the scope of its military operations in Afghanistan.

The ability to acquire new equipment rapidly is essential to help reduce the risks to personnel without compromising mission success.

**What we found**

- In three of the four projects we examined, National Defence and PWGSC provided the Canadian Forces in Afghanistan with urgently needed vehicles that National Defence determined met the operational needs. The quick procurement and delivery of these protective vehicles, in the opinion of National Defence, contributed to the safeguarding of Canadian soldiers in Afghanistan. National Defence and PWGSC successfully implemented some strategies to fast-track these three contracting processes, which potentially could be applied to streamlining non-urgent acquisitions. For the two competitive contracting processes that we examined, we found that both processes were managed in compliance with applicable contracting policies. However, we found some problems with roles and responsibilities and information provided to senior officials.
- The four projects we examined were not managed in accordance with National Defence’s project approval guide. Nor did the Department have a separate process in place, based for instance on the guide, to manage urgent acquisitions to ensure that the projects complied with government policies. Most of the required documentation was either not prepared or, if prepared, was deficient or prepared after the fact. Therefore, the documentation was of little value in helping to manage the projects or showing that the projects complied with government policies.
- While the Treasury Board of Canada Secretariat reviewed and challenged documents submitted by National Defence when it sought approval for the projects, some important issues were left unchallenged. For example, had officials asked why the required risk management strategies were not submitted, they would have learned that the strategies had not been prepared—a signal that the project management policies may not have been followed. For its part, National Defence did not disclose some important information needed for informed decision making, which made it difficult for the Secretariat to fulfill its challenge function. For instance, National Defence did not state that there was a high risk that it would not be able to replace all the old tanks in Afghanistan with the new Leopard 2 tanks, which was one of the project’s goals.

**The entities have responded.** The entities agree with all of our recommendations. Their detailed responses follow the recommendations throughout the chapter.



# Land Management and Environmental Protection on Reserves

## Chapter 6

### Main Points

#### What we examined

Land management refers to managing the use and development of land resources in a sustainable way. Land can be used for a range of purposes that interact and may compete with one another, making it desirable to plan and manage land use in an integrated way that provides for protecting the environment from negative impacts of economic development.

Until the early 1980s, all land management activities on First Nations reserves were the exclusive responsibility of the federal government. However, through comprehensive land claim settlements and self-government agreements, several First Nations have assumed full control and responsibility for the development of the reserve lands; some others have assumed responsibility under other arrangements for various aspects of land management on their reserves. The specific roles and responsibilities of the federal government vary depending on its agreement or arrangements with the First Nation.

We examined how Indian and Northern Affairs Canada (INAC) and Environment Canada have carried out the federal government's responsibilities for land management and environmental protection on reserves. This included looking at regulatory and non-regulatory measures used to manage the environment and the support INAC provides to those First Nations wishing to assume more land management responsibilities.

Audit work for this chapter was substantially completed on 29 May 2009.

#### Why it's important

Reserve lands are central to First Nations peoples' history, cultural identity, and day-to-day activities. Many First Nations are among the most economically deprived communities in the country. Their sustainable economic development depends on their access to and control over their land and natural resources and on a clean and healthy environment. Without the capacity and means to develop and use their lands and resources sustainably for their economic benefit, the opportunities for First Nations to improve their quality

of life and approach the standard of health and well-being enjoyed by other communities in Canada are severely restricted.

### What we found

- Indian and Northern Affairs Canada and Environment Canada have identified a significant gap between First Nations reserves and Canadian communities elsewhere in the degree to which regulations protect the environment. While the federal government has the authority to regulate environmental threats on reserves, it has rarely used this authority to develop regulations to mitigate environmental threats that are regulated off reserves by provincial governments.
- INAC has done little to monitor and enforce compliance with existing regulations. For example, while regulations under the *Indian Act* require a permit issued by INAC to operate a landfill site or burn waste on reserve lands, the Department has issued few permits and is not equipped to conduct inspections, monitor compliance, and enforce the regulations. Consequently, garbage is often not confined to licensed landfill sites and there is no monitoring of the impacts on drinking water sources and air quality. Off reserves, provincial and municipal regulations and enforcement help to prevent such situations.
- Although INAC has developed legislative and program options to support First Nations who wish to assume partial or full control of land management on their reserves, most First Nations lands are still managed by the Department under the *Indian Act*. First Nations' access to alternative land management regimes established by INAC does not meet the demand. Consequently, INAC is unable to keep its commitment to transfer greater control of land management to First Nations who want it and are ready to take on these responsibilities. Furthermore, for First Nations under either of the alternative land management regimes, the Department provides insufficient training in comparison with the land management responsibilities it is transferring to them.
- Officials of both INAC and Environment Canada cited a lack of funding as a key reason for not meeting some of their commitments.

**The departments have responded.** The departments agree with all of our recommendations. Their detailed responses follow each recommendation throughout the chapter.



# Emergency Management— Public Safety Canada

## Chapter 7

### What we examined

### Main Points

Emergency management refers to a wide range of measures to protect communities and the environment from risks and to recover from emergency events stemming from either natural or human-induced causes. While some emergencies in Canada can be handled locally by municipalities or provinces, the federal government will assist when requested, when the emergency transcends jurisdictional boundaries, or when its assistance is in the national interest. As emergency events today can escalate quickly, this federal capability has become increasingly necessary.

Through legislation and government policy, Public Safety Canada, which was created in December 2003, is responsible for leading by coordinating the management of emergencies among federal departments and agencies. This includes establishing policies and programs for the preparation, testing and exercising, and implementing emergency management plans; it also includes monitoring and coordinating a common federal approach to emergency response along with the provinces—an “all-hazards” approach incorporating prevention and mitigation, preparedness, response, and recovery. The Department’s responsibility for emergency management includes coordinating the protection of critical infrastructure—from planning for emergencies to recovering from them. Critical infrastructure includes physical and information technology facilities, networks, services, and assets essential to the health and safety or economic well-being of Canadians.

We examined how Public Safety Canada carries out these responsibilities. In addition, we looked at its efforts to enhance emergency response and recovery in coordination with six other departments that have specific roles in emergency management. Our audit included assessing the government’s progress on some of the commitments it made to Parliament. Our audit covers performance of federal departments and agencies and events taking place since our last audit, reported in April 2005, and 15 June 2009.

We did not examine the performance of emergency management efforts by provinces, territories, or local communities.

### Why it's important

The H1N1 pandemic, the 2003 eastern seaboard power blackout, Severe Acute Respiratory Syndrome (SARS), massive flooding, and terrorist conspiracies and attacks have demonstrated that global trade, international travel, and cyberspace have increased the speed at which emergencies escalate in scope and severity. Today, many emergencies can be difficult to contain by a single government department or jurisdiction. A federal response is needed for emergencies that are beyond the capacities of other players—emergencies that may have a low probability of occurrence but a high potential impact.

Public Safety Canada is faced with the challenging task of providing the coordination necessary for an overall federal approach to emergency management, in an environment where departments have operated as needed and through their ministers to provide federal assistance on a case-by-case basis.

### What we found

- Public Safety Canada has not exercised the leadership necessary to coordinate emergency management activities, including critical infrastructure protection in Canada. For example, it has yet to develop the policies and programs that would help clarify its leadership and coordination role for an “all-hazards” approach to the emergency management activities of departments. Public Safety Canada has taken the first step by developing the interim Federal Emergency Response Plan, which it considers to be final although it has not been formally approved by the government. Nor does the Plan include updated or completed definitions of the roles, responsibilities, and capabilities needed for an integrated, coordinated approach to emergency response.
- Public Safety Canada has made considerable progress in improving federal emergency coordination through its Government Operations Centre. It keeps other departments informed of the status of events on a real-time basis and also produces regular situation awareness reports for such issues as the H1N1 virus, which allows decisions to be based on a common set of facts.
- Public Safety Canada has developed a strategy to protect Canada’s critical infrastructure, but this strategy is still in draft form. At the time of our audit, the critical infrastructure that needs to be protected had not yet been determined. Public Safety has moved forward in promoting a consistent approach to protection efforts across government. For example, it has categorized critical

infrastructure into 10 sectors, each headed by a federal department. However, it has not provided those departments with guidance for determining what assets or facilities are critical and require protection.

- Progress has been slow until 2009 on Public Safety Canada's 2004 commitment to develop a cyber security strategy, although threats to computer-based critical infrastructure, including federal information systems, have been growing and evolving. To date, it has identified the key elements of a cyber strategy and initiated action on a list of current cyber security initiatives along with other federal government departments. However, at the time of our audit, no date was planned for obtaining formal approval of the strategy.
- Although the 2004 National Security Policy called for first responders' equipment and communications to be interoperable, key gaps remain for voice communications. This limits the ability of fire, police, and ambulance services to work together and with other jurisdictions in an emergency. The Department has directed little or no funding toward standardizing equipment.

**The Department and the Privy Council Office have responded.** The Department and the Privy Council Office agree with all of the recommendations that are addressed to them. Their detailed responses follow the recommendations throughout the chapter.



# Strengthening Aid Effectiveness— Canadian International Development Agency

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## Chapter 8

### What we examined

The Canadian International Development Agency (CIDA) administers the bulk of Canada's official development assistance program. Its mission is to lead Canada's international effort to help people living in poverty. It does not have governing legislation that defines its mandate and role.

In its 2002 Policy Statement on Strengthening Aid Effectiveness, CIDA committed to align its efforts with recipient countries' needs and priorities; harmonize its activities with those of other donors; and use new forms of aid known as program-based approaches, in which donors coordinate support to the budgets of recipient governments or local organizations for a development program delivered using local systems and procedures. Recognizing that its programming is widely dispersed, CIDA has also committed to focus its aid in fewer sectors in order to make a more meaningful contribution.

We examined how the Agency is implementing these commitments. We looked at management processes in place at its head office to guide and sustain the implementation of the commitments. In addition, we selected five countries and looked at how CIDA plans its activities there, selects projects for funding, and monitors project risks.

Audit work for this chapter was substantially completed 15 May 2009.

### Why it's important

Development assistance is a key means to help developing countries reduce poverty. It is estimated that over 1.4 billion people are living on less than US\$1.25 a day—the latest international poverty line set by the World Bank. CIDA's commitments reflect principles of aid effectiveness that international donor countries have recognized will lead to more sustainable and self-reliant development.

By its nature, international development requires a long-term effort and stable, predictable programming. CIDA has declared aid effectiveness to be its overarching priority, recognizing that this involves risks of a different nature and level and significantly changes the way it needs to work with other donors and recipient governments. Robust management processes—which include specific action plans,

performance targets, assigned accountabilities, and management review—are crucial to sustain implementation of its commitments and directions over time.

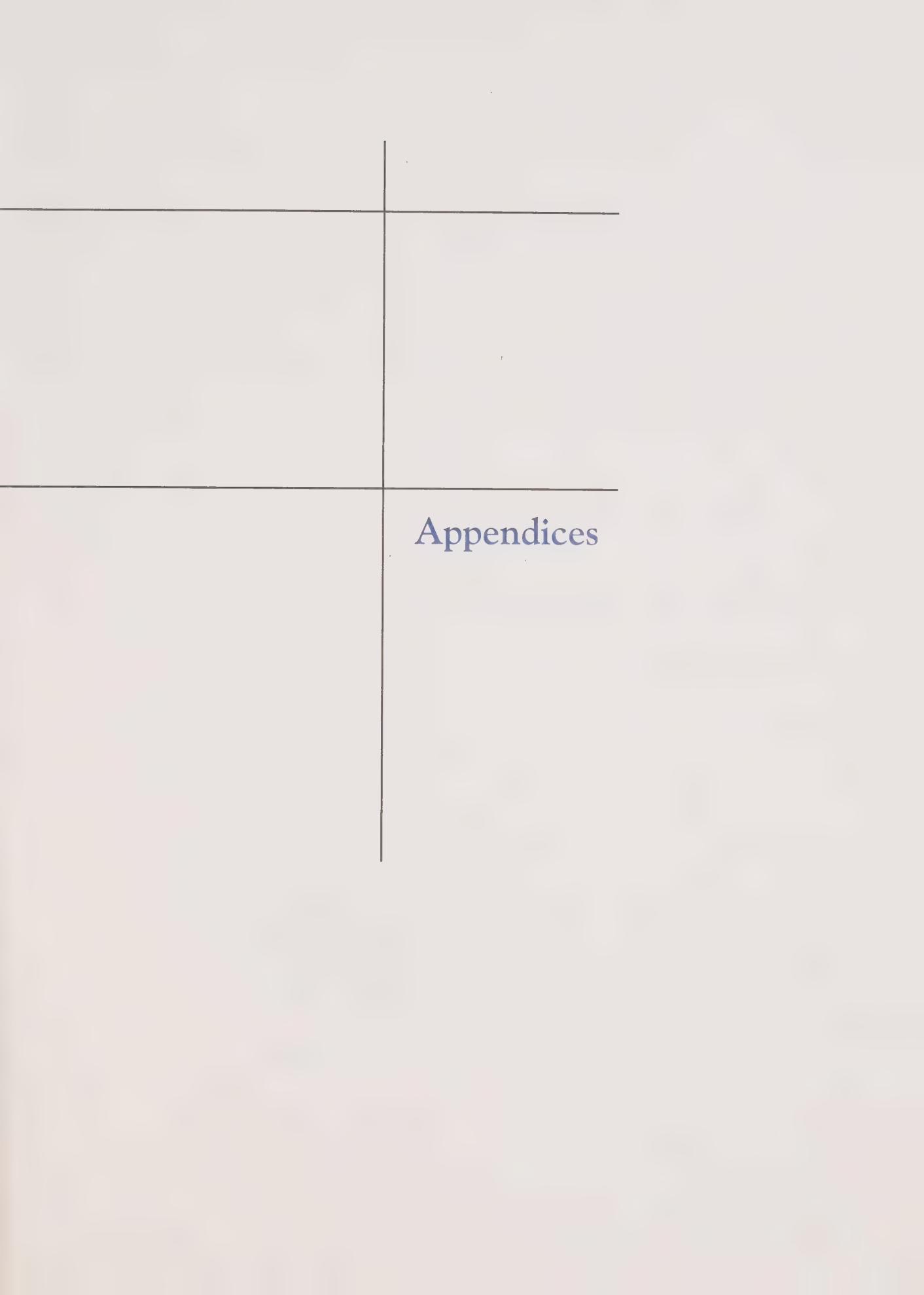
## What we found

- In the field, CIDA is working in collaboration with other donors to align its development assistance with the needs of the recipient countries we looked at. It is working to harmonize its efforts with those of other donors and to use program-based approaches where appropriate. Its selection of projects for funding is based on a rationale consistent with principles of aid effectiveness. We were told that CIDA is well regarded in the field and that its partners appreciate its efforts. However, the complex and lengthy processes required to obtain corporate approval for project funding have long been criticized within and outside the Agency.
- Corporate support in the Agency for program-based approaches has been neither uniform nor timely. In the early years after the 2002 Policy Statement was released, management provided little specific direction to field operations on how and when to use program-based approaches, and there are no quantitative targets for the extent of their use. The Agency's internal processes do not clearly stipulate the conditions under which it would or would not participate in a program-based approach or the types of risk assessment to be done before agreeing to participate. However, it had undertaken some form of risk assessment for the program-based approaches we examined or it had relied on its donor partners' analyses. It also monitored project risks.
- CIDA's main planning documents—Country Development Programming Frameworks—for the countries we examined have expired, and the process used to prepare and maintain them has been discontinued. The Agency is developing a new planning process but, by the end of our audit, the status of the new plans was unclear because none had received formal approval or been communicated broadly within CIDA. None have been made public. This means that donors, recipient governments, and program staff are unclear about the Agency's direction and long-term commitment to specific countries or regions.
- As a result of lack of clear direction and action plans, coupled with broadly defined and shifting priority sectors, CIDA is not realizing its goal of making a more meaningful Canadian contribution in a country or region by focusing its aid more narrowly. It has made limited progress in determining its strengths relative to other donors as well as the type of expertise it requires to support its priority

sectors and how best to provide it. The lack of direction and shifting priorities have undermined the long-term predictability of the Agency's efforts.

- Many of the weaknesses we identified can be traced to a lack of corporate management processes to guide and monitor the implementation of CIDA's aid effectiveness commitments. The Agency's early intentions were not matched with specific action plans and follow-through, and it has yet to develop a comprehensive strategy for implementing its commitments. In addition, frequent changes in policy direction and substantial turnover of senior personnel in recent years have posed significant challenges for CIDA's aid effectiveness agenda.

**The Agency has responded.** The Agency agrees with all of our recommendations. Its detailed responses follow the recommendations throughout the chapter.



## Appendices



## Appendix A Auditor General Act

Short Title	
Short title	1. This Act may be cited as the <i>Auditor General Act</i> .
Interpretation	
Definitions	2. In this Act,
“appropriate Minister”	“appropriate Minister” has the meaning assigned by section 2 of the <i>Financial Administration Act</i> ;
“Auditor General”	“Auditor General” means the Auditor General of Canada appointed pursuant to subsection 3(1);
“category I department”	“category I department” means <ul style="list-style-type: none"> <li>(a) any department named in schedule I to the <i>Financial Administration Act</i>,</li> <li>(b) any department in respect of which a direction has been made under subsection 11(3) of the <i>Federal Sustainable Development Act</i>; and</li> <li>(c) any agency set out in the schedule to the <i>Federal Sustainable Development Act</i>.</li> </ul>
“Commissioner”	“Commissioner” means the Commissioner of the Environment and Sustainable Development appointed under subsection 15.1(1);
“Crown corporation”	“Crown corporation” has the meaning assigned to that expression by section 83 of the <i>Financial Administration Act</i> ;
“department”	“department” has the meaning assigned to that term by section 2 of the <i>Financial Administration Act</i> ;
“funding agreement”	“funding agreement” has the meaning given to that expression by subsection 42(4) of the <i>Financial Administration Act</i> ;
“recipient”	“recipient” has the meaning given to that expression by subsection 42(4) of the <i>Financial Administration Act</i> ;
“registrar”	“registrar” means the Bank of Canada and a registrar appointed under Part IV of the <i>Financial Administration Act</i> ;

“sustainable development”	“sustainable development” means development that meets the needs of the present without compromising the ability of future generations to meet their own needs;
Control	<p><b>2.1</b> (1) For the purpose of paragraph (d) of the definition “recipient” in subsection 42(4) of the <i>Financial Administration Act</i>, a municipality or government controls a corporation with share capital if</p> <ul style="list-style-type: none"> <li>(a) shares of the corporation to which are attached more than fifty per cent of the votes that may be cast to elect directors of the corporation are held, otherwise than by way of security only, by, on behalf of or in trust for that municipality or government; and</li> <li>(b) the votes attached to those shares are sufficient, if exercised, to elect a majority of the directors of the corporation.</li> </ul> <p>(2) For the purpose of paragraph (d) of the definition “recipient” in subsection 42(4) of the <i>Financial Administration Act</i>, a corporation without share capital is controlled by a municipality or government if it is able to appoint the majority of the directors of the corporation, whether or not it does so.</p>
Auditor General of Canada	
Appointment	<p>3. (1) The Governor in Council shall, by commission under the Great Seal, appoint an Auditor General of Canada after consultation with the leader of every recognized party in the Senate and House of Commons and approval of the appointment by resolution of the Senate and House of Commons.</p>
Tenure	<p>(1.1) The Auditor General holds office during good behaviour for a term of 10 years but may be removed for cause by the Governor in Council on address of the Senate and House of Commons.</p>
Ceasing to hold office	<p>(2) Despite subsections (1) and (1.1), the Auditor General ceases to hold office on reaching 65 years of age.</p>
Re-appointment	<p>(3) Once having served as the Auditor General, a person is not eligible for re-appointment to that office.</p>
Interim appointment	<p>(4) In the event of the absence or incapacity of the Auditor General or if that office is vacant, the Governor in Council may appoint any qualified auditor to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor in Council.</p>

**Salary**

4. (1) The Auditor General shall be paid a salary equal to the salary of a puisne judge of the Supreme Court of Canada.

**Pension benefits**

(2) The provisions of the *Public Service Superannuation Act*, other than those relating to tenure of office, apply to the Auditor General except that a person appointed as Auditor General from outside the public service may, by notice in writing given to the President of the Treasury Board not more than sixty days after the date of his appointment as Auditor General, elect to participate in the pension plan provided for in the *Diplomatic Service (Special) Superannuation Act* in which case the provisions of that Act, other than those relating to tenure of office, apply to him and the provisions of the *Public Service Superannuation Act* do not apply to him.

**Powers and Duties**

**Examination**

5. The Auditor General is the auditor of the accounts of Canada, including those relating to the Consolidated Revenue Fund and as such shall make such examinations and inquiries as he considers necessary to enable him to report as required by this Act.

**Idem**

6. The Auditor General shall examine the several financial statements required by section 64 of the *Financial Administration Act* to be included in the Public Accounts, and any other statement that the President of the Treasury Board or the Minister of Finance may present for audit and shall express his opinion as to whether they present fairly information in accordance with stated accounting policies of the federal government and on a basis consistent with that of the preceding year together with any reservations he may have.

**Annual and additional reports to the House of Commons**

7. (1) The Auditor General shall report annually to the House of Commons and may make, in addition to any special report made under subsection 8(1) or 19(2) and the Commissioner's report under subsection 23(2), not more than three additional reports in any year to the House of Commons

- (a) on the work of his office; and,
- (b) on whether, in carrying on the work of his office, he received all the information and explanations he required.

## Idem

(2) Each report of the Auditor General under subsection (1) shall call attention to anything that he considers to be of significance and of a nature that should be brought to the attention of the House of Commons, including any cases in which he has observed that

- (a) accounts have not been faithfully and properly maintained or public money has not been fully accounted for or paid, where so required by law, into the Consolidated Revenue Fund;
- (b) essential records have not been maintained or the rules and procedures applied have been insufficient to safeguard and control public property, to secure an effective check on the assessment, collection and proper allocation of the revenue and to ensure that expenditures have been made only as authorized;
- (c) money has been expended other than for purposes for which it was appropriated by Parliament;
- (d) money has been expended without due regard to economy or efficiency;
- (e) satisfactory procedures have not been established to measure and report the effectiveness of programs, where such procedures could appropriately and reasonably be implemented; or
- (f) money has been expended without due regard to the environmental effects of those expenditures in the context of sustainable development.

## Submission of annual report to Speaker and tabling in the House of Commons

(3) Each annual report by the Auditor General to the House of Commons shall be submitted to the Speaker of the House of Commons on or before December 31 in the year to which the report relates and the Speaker of the House of Commons shall lay each such report before the House of Commons forthwith after receiving it or, if that House is not then sitting, on any of the first fifteen days on which that House is sitting after the Speaker receives it.

## Notice of additional reports to Speaker and tabling in the House of Commons

(4) Where the Auditor General proposes to make an additional report under subsection (1), the Auditor General shall send written notice to the Speaker of the House of Commons of the subject-matter of the proposed report.

## Submission of additional reports to Speaker and tabling in the House of Commons

(5) Each additional report of the Auditor General to the House of Commons made under subsection (1) shall be submitted to the House of Commons on the expiration of thirty days after the notice is sent pursuant to subsection (4) or any longer period that is specified in the notice and the Speaker of the House of Commons shall lay each such report before the House of Commons forthwith after receiving it or, if that House is not then sitting, on any of the first fifteen days on which that House is sitting after the Speaker receives it.

**Inquiry and report**

7.1 (1) The Auditor General may, with respect to a recipient under any funding agreement, inquire into whether

- (a) the recipient has failed to fulfil its obligations under any funding agreement;
- (b) money the recipient has received under any funding agreement has been used without due regard to economy and efficiency;
- (c) the recipient has failed to establish satisfactory procedures to measure and report on the effectiveness of its activities in relation to the objectives for which it received funding under any funding agreement;
- (d) the recipient has failed to faithfully and properly maintain accounts and essential records in relation to any amount it has received under any funding agreement; or
- (e) money the recipient has received under any funding agreement has been expended without due regard to the environmental effects of those expenditures in the context of sustainable development.

**Report**

(2) The Auditor General may set out his or her conclusions in respect of an inquiry into any matter referred to in subsection (1) in the annual report, or in any of the three additional reports, referred to in subsection 7(1). The Auditor General may also set out in that report anything emerging from the inquiry that he or she considers to be of significance and of a nature that should be brought to the attention of the House of Commons.

**Special report to the House of Commons**

8. (1) The Auditor General may make a special report to the House of Commons on any matter of pressing importance or urgency that, in the opinion of the Auditor General, should not be deferred until the presentation of the next report under subsection 7(1).

**Submission of reports to Speaker and tabling in the House of Commons**

(2) Each special report of the Auditor General to the House of Commons made under subsection (1) or 19(2) shall be submitted to the Speaker of the House of Commons and shall be laid before the House of Commons by the Speaker of the House of Commons forthwith after receipt thereof by him, or if that House is not then sitting, on the first day next thereafter that the House of Commons is sitting.

Idem

9. The Auditor General shall

- (a) make such examination of the accounts and records of each registrar as he deems necessary, and such other examinations of a registrar's transactions as the Minister of Finance may require, and
- (b) when and to the extent required by the Minister of Finance, participate in the destruction of any redeemed or cancelled securities or unissued reserves of securities authorized to be destroyed under the *Financial Administration Act*,

and he may, by arrangement with a registrar, maintain custody and control, jointly with that registrar, of cancelled and unissued securities.

Improper retention of public money

10. Whenever it appears to the Auditor General that any public money has been improperly retained by any person, he shall forthwith report the circumstances of the case to the President of the Treasury Board.

Inquiry and report

11. The Auditor General may, if in his opinion such an assignment does not interfere with his primary responsibilities, whenever the Governor in Council so requests, inquire into and report on any matter relating to the financial affairs of Canada or to public property or inquire into and report on any person or organization that has received financial aid from the Government of Canada or in respect of which financial aid from the Government of Canada is sought.

Advisory powers

12. The Auditor General may advise appropriate officers and employees in the federal public administration of matters discovered in his examinations and, in particular, may draw any such matter to the attention of officers and employees engaged in the conduct of the business of the Treasury Board.

#### Access to Information

Access to information

13. (1) Except as provided by any other Act of Parliament that expressly refers to this subsection, the Auditor General is entitled to free access at all convenient times to information that relates to the fulfilment of his or her responsibilities and he or she is also entitled to require and receive from members of the federal public administration such information, reports and explanations as he or she considers necessary for that purpose.

(2) In order to carry out his duties more effectively, the Auditor General may station in any department any person employed in his office, and the department shall provide the necessary office accommodation for any person so stationed.

**Oath of secrecy**

(3) The Auditor General shall require every person employed in his office who is to examine the accounts of a department or of a Crown corporation pursuant to this Act to comply with any security requirements applicable to, and to take any oath of secrecy required to be taken by, persons employed in that department or Crown corporation.

**Inquiries**

(4) The Auditor General may examine any person on oath on any matter pertaining to any account subject to audit by him and for the purposes of any such examination the Auditor General may exercise all the powers of a commissioner under Part I of the *Inquiries Act*.

**Reliance on audit reports of Crown corporations**

14. (1) Notwithstanding subsections (2) and (3), in order to fulfil his responsibilities as the auditor of the accounts of Canada, the Auditor General may rely on the report of the duly appointed auditor of a Crown corporation or of any subsidiary of a Crown corporation.

**Auditor General may request information**

(2) The Auditor General may request a Crown corporation to obtain and furnish him such information and explanations from its present or former directors, officers, employees, agents and auditors or those of any of its subsidiaries as are, in his opinion, necessary to enable him to fulfil his responsibilities as the auditor of the accounts of Canada.

**Direction of the Governor in Council**

(3) If, in the opinion of the Auditor General, a Crown corporation, in response to a request made under subsection (2), fails to provide any or sufficient information or explanations, he may so advise the Governor in Council, who may thereupon direct the officers of the corporation to furnish the Auditor General with such information and explanations and to give him access to those records, documents, books, accounts and vouchers of the corporation or any of its subsidiaries access to which is, in the opinion of the Auditor General, necessary for him to fulfil his responsibilities as the auditor of the accounts of Canada.

**Staff of the Auditor General**

15. (1) The officers and employees that are necessary to enable the Auditor General to perform his or her duties are to be appointed in accordance with the *Public Service Employment Act* and, subject to subsections (2) to (5), the provisions of that Act apply to those officers and employees.

(2) The Auditor General may exercise the powers and perform the functions of the employer and deputy head under the *Public Service Employment Act* within the meaning of those terms in subsection 2(1) of that Act.

**Public Service  
Employment Act  
—Commission**

(3) The Auditor General may, in the manner and subject to the terms and conditions that the Public Service Commission directs, exercise the powers and perform the functions of that Commission under the *Public Service Employment Act*, other than its powers and functions in relation to the hearing of allegations by a candidate under sections 118 and 119 of that Act and its power to make regulations.

**Delegation**

(4) The Auditor General may authorize any person employed in his or her office to exercise and perform, in any manner and subject to any terms and conditions that he or she directs, any of his or her powers and functions under subsections (2) and (3).

**Sub-delegation**

(5) Any person authorized under subsection (4) may, subject to and in accordance with the authorization, authorize one or more persons under that person's jurisdiction to exercise any power or perform any function to which the authorization relates.

**Appointment of  
Commissioner**

**15.1** (1) The Auditor General shall, in accordance with the *Public Service Employment Act*, appoint a senior officer to be called the Commissioner of the Environment and Sustainable Development who shall report directly to the Auditor General.

**Commissioner's duties**

(2) The Commissioner shall assist the Auditor General in performing the duties of the Auditor General set out in this Act that relate to the environment and sustainable development.

**Responsibility for  
human resources  
management**

**16.** The Auditor General is authorized, in respect of persons appointed in his or her office, to exercise the powers and perform the functions of the Treasury Board that relate to human resources management within the meaning of paragraph 7(1)(e) and section 11.1 of the *Financial Administration Act*, as well as those of deputy heads under subsection 12(2) of that Act, as that subsection reads without regard to any terms and conditions that the Governor in Council may direct, including the determination of terms and conditions of employment and the responsibility for employer and employee relations.

**Delegation**

**16.1** (1) The Auditor General may authorize any person employed in his or her office to exercise and perform, in any manner and subject to any terms and conditions that he or she directs, any of his or her powers and functions in relation to human resources management.

**Sub-delegation**

(2) Any person authorized under subsection (1) may, subject to and in accordance with the authorization, authorize one or more persons under that person's jurisdiction to exercise any power or perform any function to which the authorization relates.

Contract for professional services	<p><b>16.2</b> Subject to any other Act of Parliament or regulations made under any Act of Parliament, but without the approval of the Treasury Board, the Auditor General may, within the total dollar limitations established for his or her office in appropriation Acts, contract for professional services.</p>
Classification standards	<p><b>17.</b> Classification standards may be prepared for persons employed in the office of the Auditor General to conform with the classifications that the Auditor General recognizes for the purposes of that office.</p>
Delegation	<p><b>18.</b> The Auditor General may designate a senior member of his staff to sign on his behalf any opinion that he is required to give and any report, other than his annual report on the financial statements of Canada made pursuant to section 64 of the <i>Financial Administration Act</i> and his reports to the House of Commons under this Act, and any member so signing an opinion or report shall indicate beneath his signature his position in the office of the Auditor General and the fact that he is signing on behalf of the Auditor General.</p>
	<h3>Immunities</h3>
Immunity as witness	<p><b>18.1</b> The Auditor General, or any person acting on behalf or under the direction of the Auditor General, is not a competent or compellable witness — in respect of any matter coming to the knowledge of the Auditor General or that person as a result of performing audit powers, duties or functions under this or any other Act of Parliament during an examination or inquiry — in any proceedings other than a prosecution for an offence under section 131 of the <i>Criminal Code</i> (perjury) in respect of a statement made under this Act.</p>
Protection from prosecution	<p><b>18.2</b> (1) No criminal or civil proceedings lie against the Auditor General, or against any person acting on behalf or under the direction of the Auditor General, for anything done, reported or said in good faith in the course of the performance or purported performance of audit powers, duties or functions under this or any other Act of Parliament.</p>
Defamation	<p>(2) For the purposes of any law relating to defamation,</p> <p class="list-item-l1">(a) anything said, any information supplied or any document or thing produced in good faith by or on behalf of the Auditor General, in the course of the performance or purported performance of audit powers, duties or functions under this or any other Act of Parliament, is privileged; and</p> <p class="list-item-l1">(b) any report made in good faith by the Auditor General in the course of the performance or purported performance of audit powers, duties or functions under this or any other Act of Parliament, and any fair and accurate account of the report made in good faith in a newspaper or any other periodical publication or in a broadcast, is privileged.</p>

## Estimates

### Estimates

19. (1) The Auditor General shall annually prepare an estimate of the sums that will be required to be provided by Parliament for the payment of the salaries, allowances and expenses of his office during the next ensuing fiscal year.

### Special report

(2) The Auditor General may make a special report to the House of Commons in the event that amounts provided for his office in the estimates submitted to Parliament are, in his opinion, inadequate to enable him to fulfil the responsibilities of his office.

### Appropriation allotments

20. The provisions of the *Financial Administration Act* with respect to the division of appropriations into allotments do not apply in respect of appropriations for the office of the Auditor General.

## Audit of the Office of the Auditor General

### Audit of the office of the Auditor General

21. (1) A qualified auditor nominated by the Treasury Board shall examine the receipts and disbursements of the office of the Auditor General and shall report annually the outcome of his examinations to the House of Commons.

### Submission of reports and tabling

(2) Each report referred to in subsection (1) shall be submitted to the President of the Treasury Board on or before the 31st day of December in the year to which the report relates and the President of the Treasury Board shall lay each such report before the House of Commons within fifteen days after receipt thereof by him or, if that House is not then sitting, on any of the first fifteen days next thereafter that the House of Commons is sitting.

## Sustainable Development

### Purpose

21.1 In addition to carrying out the functions referred to in subsections 23(3) and (4), the purpose of the Commissioner is to provide sustainable development monitoring and reporting on the progress of category I departments towards sustainable development, which is a continually evolving concept based on the integration of social, economic and environmental concerns, and which may be achieved by, among other things,

- (a) the integration of the environment and the economy;
- (b) protecting the health of Canadians;
- (c) protecting ecosystems;
- (d) meeting international obligations;
- (e) promoting equity;
- (f) an integrated approach to planning and making decisions that takes into account the environmental and natural resource costs of different economic options and the economic costs of different environmental and natural resource options;

	<ul style="list-style-type: none"> <li>(g) preventing pollution; and</li> <li>(h) respect for nature and the needs of future generations.</li> </ul>
Petitions received	<p><b>22.</b> (1) Where the Auditor General receives a petition in writing from a resident of Canada about an environmental matter in the context of sustainable development that is the responsibility of a category I department, the Auditor General shall make a record of the petition and forward the petition within fifteen days after the day on which it is received to the appropriate Minister for the department.</p>
Acknowledgement to be sent	<p>(2) Within fifteen days after the day on which the Minister receives the petition from the Auditor General, the Minister shall send to the person who made the petition an acknowledgement of receipt of the petition and shall send a copy of the acknowledgement to the Auditor General.</p>
Minister to respond	<p>(3) The Minister shall consider the petition and send to the person who made it a reply that responds to it, and shall send a copy of the reply to the Auditor General, within</p> <ul style="list-style-type: none"> <li>(a) one hundred and twenty days after the day on which the Minister receives the petition from the Auditor General; or</li> <li>(b) any longer time, where the Minister personally, within those one hundred and twenty days, notifies the person who made the petition that it is not possible to reply within those one hundred and twenty days and sends a copy of that notification to the Auditor General.</li> </ul>
Multiple petitioners	<p>(4) Where the petition is from more than one person, it is sufficient for the Minister to send the acknowledgement and reply, and the notification, if any, to one or more of the petitioners rather than to all of them.</p>
Duty to monitor	<p><b>23.</b> (1) The Commissioner shall make any examinations and inquiries that the Commissioner considers necessary in order to monitor</p> <ul style="list-style-type: none"> <li>(a) the extent to which category I departments have contributed to meeting the targets set out in the Federal Sustainable Development Strategy and have met the objectives, and implemented the plans, set out in their own sustainable development strategies laid before the House of Commons under section 11 of the <i>Federal Sustainable Development Act</i>; and</li> <li>(b) the replies by Ministers required by subsection 22(3).</li> </ul>

**Commissioner's report**

(2) The Commissioner shall, on behalf of the Auditor General, report annually to the House of Commons concerning anything that the Commissioner considers should be brought to the attention of that House in relation to environmental and other aspects of sustainable development, including

- (a) the extent to which category I departments have contributed to meeting the targets set out in the Federal Sustainable Development Strategy and have met the objectives, and implemented the plans, set out in their own sustainable development strategies laid before that House under section 11 of the *Federal Sustainable Development Act*;
- (b) the number of petitions recorded as required by subsection 22(1), the subject-matter of the petitions and their status; and
- (c) the exercising of the authority of the Governor in Council under subsections 11(3) and (4) of the *Federal Sustainable Development Act*.

**Duty to examine**

(3) The Commissioner shall examine the report required under subsection 7(2) of the *Federal Sustainable Development Act* in order to assess the fairness of the information contained in the report with respect to the progress of the federal government in implementing the Federal Sustainable Development Strategy and meeting its targets.

**Duty to report**

(4) The Commissioner shall include in the report referred to in subsection (2) the results of any assessment conducted under subsection (3) since the last report was laid before the House of Commons under subsection (5).

**Submission and tabling of report**

(5) The report required by subsection (2) shall be submitted to the Speaker of the House of Commons and shall be laid before that House by the Speaker on any of the next 15 days on which that House is sitting after the Speaker receives it.

## Appendix B Reports of the Standing Committee on Public Accounts to the House of Commons, 2008–09

The following reports have been tabled since our December 2008 Report went to print. They are available on the website of Canada's Parliament ([www.parl.gc.ca](http://www.parl.gc.ca)).

### 40th Parliament, 2nd Session

**Report 1**—Chapter 4, Military Health Care—National Defence, of the October 2007 Report of the Auditor General of Canada (Adopted by the Committee on 12 February 2009; presented to the House on 25 February 2009)

**Report 2**—Chapter 5, Keeping the Border Open and Secure—Canada Border Services Agency, of the October 2007 Report of the Auditor General of Canada (Adopted by the Committee on 12 February 2009; presented to the House on 25 February 2009)

**Report 3**—Chapter 3, Inuvialuit Final Agreement, of the October 2007 Report of the Auditor General of Canada (Adopted by the Committee on 12 February 2009; presented to the House on 25 February 2009)

**Report 4**—Chapter 5, Managing the Delivery of Legal Services to Government—Department of Justice Canada, of the May 2007 Report of the Auditor General of Canada (Adopted by the Committee on 12 February 2009; presented to the House on 25 February 2009)

**Report 5**—Chapter 4, Canadian Agricultural Income Stabilization—Agriculture and Agri-Food Canada, of the May 2007 Report of the Auditor General of Canada (Adopted by the Committee on 12 February 2009; presented to the House on 25 February 2009)

**Report 6**—Public Accounts of Canada 2008 (Adopted by the Committee on 5 March 2009; presented to the House on 24 March 2009)

**Report 7**—Chapter 4, First Nations Child and Family Services Program—Indian and Northern Affairs Canada, of the May 2008 Report of the Auditor General of Canada (Adopted by the Committee on 5 March 2009; presented to the House on 24 March 2009)

**Report 8**—Main Estimates 2009–2010: Vote 15 under Finance, and Part III—Report on Plans and Priorities and Departmental Performance Report of the Office of the Auditor General of Canada (Adopted by the Committee on 23 April 2009; presented to the House on 13 May 2009)

**Report 9**—Chapter 7, Detention and Removal of Individuals—Canada Border Services Agency, of the May 2008 Report of the Auditor General of Canada (Adopted by the Committee on 28 April 2009; presented to the House on 13 May 2009)

**Report 10**—Chapter 1, Management of Fees in Selected Departments and Agencies, of the May 2008 Report of the Auditor General of Canada (Adopted by the Committee on 28 April 2009; presented to the House on 13 May 2009)

**Report 11**—Chapter 1, A Study of Federal Transfers to Provinces and Territories, of the December 2008 Report of the Auditor General of Canada (Adopted by the Committee on 7 May 2009; presented to the House on 27 May 2009)

**Report 12**—Chapter 5, Surveillance of Infectious Diseases—Public Health Agency of Canada, of the May 2008 Report of the Auditor General of Canada (Adopted by the Committee on 7 May 2009; presented to the House on 27 May 2009)

**Report 13**—Supplementary Estimates (A) 2009–2010: Vote 15a under Finance (Adopted by the Committee on 26 May 2009; presented to the House on 10 June 2009)

**Report 14**—Chapter 2, Governance of Small Federal Entities, of the December 2008 Report of the Auditor General of Canada (Adopted by the Committee on 28 May 2009; presented to the House on 10 June 2009)

**Report 15**—Chapter 7, Economy and Efficiency of Services—Correctional Service Canada, of the December 2008 Report of the Auditor General of Canada (Adopted by the Committee on 4 June 2009; presented to the House on 16 June 2009)

**Report 16**—Main Estimates 2009–2010: Vote 15 under Finance, and Part III—Report on Plans and Priorities and Departmental Performance Report of the Office of the Auditor General of Canada (Adopted by the Committee on 4 June 2009; presented to the House on 16 June 2009)

**Report 17**—Chapter 1, National Security: Intelligence and Information Sharing, of the 2009 Status Report of the Auditor General of Canada (Adopted by the Committee on 16 June 2009; presented to the House on 19 June 2009)

**Report 18**—Chapter 4, Managing Risks to Canada's Plant Resources—Canadian Food Inspection Agency of the December 2008 Report of the Auditor General of Canada (Adopted by the Committee on 16 June 2009; presented to the House on 19 June 2009)

## Appendix C Report on the audit of the President of the Treasury Board's report *Tabling of Crown Corporations Reports in Parliament*

### Tablings in Parliament for parent Crown corporations: Annual reports and summaries of corporate plans and budgets

Section 152 of the *Financial Administration Act* (*the Act*) requires the President of the Treasury Board to lay before each House of Parliament a report on the timing of the tabling, by appropriate ministers, of annual reports and summaries of corporate plans and of budgets of Crown corporations. This report of the President of the Treasury Board is included in the 2009 *Annual Report to Parliament—Crown Corporations and Other Corporate Interests of Canada*, which must be tabled by 31 December.

The *Act* requires the Auditor General to audit the accuracy of the President of the Treasury Board's report on the timing of tablings and to present the results in her annual report to the House of Commons.

At the time that our annual report was going to print, we were unable to include the results of the above audit, since the President of the Treasury Board's report had not yet been finalized. The auditor's report, which is required by the *Act*, will therefore be included in the next Report of the Auditor General to the House of Commons. It will also be appended to this year's report of the President of the Treasury Board.

## Appendix D Costs of Crown corporation audits conducted by the Office of the Auditor General of Canada

The Office is required, under section 147 of the *Financial Administration Act*, to disclose its costs incurred in preparing annual audit (Exhibit D.1) and special examination reports on Crown corporations.

An audit report includes an opinion on a corporation's financial statements and on its compliance with specified authorities. It may also include reporting on any other matter deemed significant.

A special examination determines whether a corporation's financial and management control and information systems and its management practices provide reasonable assurance that

- assets have been safeguarded and controlled;
- financial, human, and physical resources have been managed economically and efficiently; and
- operations have been carried out effectively.

In 2008–09, the Office completed the special examination of eight Crown corporations. The costs incurred are in the following table:

Canada Council for the Arts	\$757,009
Canada Development Investment Corporation (joint auditor)	\$328,707
Canada Mortgage and Housing Corporation (joint auditor)	\$807,924
Defence Construction (1951) Limited	\$461,995
Federal Bridge Corporation Limited , The	\$798,768
Pacific Pilotage Authority	\$214,687
Parc Downsview Park Inc.	\$459,381
VIA Rail Canada Inc.	\$1,247,055

## Exhibit D.1 Cost of preparing annual audit reports for fiscal years ending on or before 31 March 2009

Crown corporation	Fiscal year ended	Cost*
Atlantic Pilotage Authority	31.12.08	\$94,327
Atomic Energy of Canada Limited (joint auditor)	31.03.09	392,155
Blue Water Bridge Authority	31.08.08	161,242
Business Development Bank of Canada (joint auditor)	31.03.09	392,235
Canada Council for the Arts	31.03.09	181,059
Canada Deposit Insurance Corporation	31.03.09	138,946
Canada Development Investment Corporation (joint auditor)	31.12.08	103,166
Canada Hibernia Holding Corporation	31.12.08	95,970
Canada Lands Company Limited (joint auditor)	31.03.09	308,150
Canada Mortgage and Housing Corporation (joint auditor)	31.12.08	676,241
Canada Post Corporation (joint auditor)	31.12.08	709,329
Canadian Air Transport Security Authority	31.03.09	502,045
Canadian Broadcasting Corporation	31.03.09	839,974
Canadian Commercial Corporation	31.03.09	217,085
Canadian Dairy Commission	31.07.08	261,573
Canadian Museum for Human Rights	31.03.09	141,345
Canadian Museum of Civilization	31.03.09	184,635
Canadian Museum of Nature	31.03.09	132,091
Canadian Race Relations Foundation	31.03.09	136,945
Canadian Tourism Commission	31.12.08	312,802
Cape Breton Development Corporation	31.03.09	108,001
Defence Construction (1951) Limited	31.03.09	79,775
Enterprise Cape Breton Corporation	31.03.09	138,277
Export Development Canada	31.12.08	1,137,411
Farm Credit Canada	31.03.09	744,456
Federal Bridge Corporation Limited, The	31.03.09	97,879
First Nations Statistical Institute	31.03.09	27,917**
Freshwater Fish Marketing Corporation	30.04.08	264,494
Great Lakes Pilotage Authority	31.12.08	127,700
International Development Research Centre	31.03.09	190,483
Jacques Cartier and Champlain Bridges Incorporated, The	31.03.09	110,153
Laurentian Pilotage Authority	31.12.08	116,528
Marine Atlantic Inc.	31.03.09	203,960
National Arts Centre Corporation	31.08.08	312,585
National Capital Commission	31.03.09	269,337
National Gallery of Canada	31.03.09	158,893
National Museum of Science and Technology	31.03.09	128,189
Old Port of Montréal Corporation Inc.	31.03.09	164,819
Pacific Pilotage Authority	31.12.08	74,846
Parc Downsview Park Inc.	31.03.09	156,555

## Exhibit D.1 Cost of preparing annual audit reports for fiscal years ending on or before 31 March 2009 (continued)

Crown corporation	Fiscal year ended	Cost*
Public Sector Pension Investment Board (joint auditor)	31.03.09	526,492
Public-Private Partnerships Canada Inc. (joint auditor)	31.03.09	85,856
Ridley Terminals Inc.	31.12.08	207,687
Royal Canadian Mint	31.12.08	662,909
Seaway International Bridge Corporation Ltd., The	31.03.09	83,855
Standards Council of Canada	31.03.09	73,749
Telefilm Canada	31.03.09	180,231
VIA Rail Canada Inc.	31.12.08	676,423

\* Audit costs are preliminary and subject to year-end adjustments

\*\* New audit client, audit not yet complete.

# Report of the Auditor General of Canada to the House of Commons—Fall 2009

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2009



FALL

Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**Chapter 1**  
Evaluating the Effectiveness of Programs



Office of the Auditor General of Canada



# 2009



**FALL**

Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**Chapter 1**  
Evaluating the Effectiveness of Programs



Office of the Auditor General of Canada

*The Fall 2009 Report of the Auditor General of Canada comprises Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters. The main table of contents for the Report is found at the end of this publication.*

The Report is available on our website at [www.oag-bvg.gc.ca](http://www.oag-bvg.gc.ca).

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Chapter

# 1

Evaluating the Effectiveness  
of Programs



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# Evaluating the Effectiveness of Programs

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## Main Points

### What we examined

Effectiveness evaluation is an established tool that uses systematic research methods drawn from many different disciplines to assess how well a program is achieving its objectives. When done well, it allows departments to develop evidence to determine how well their programs meet expectations, and whether they are cost-effective. Over the past 40 years, the federal government has made efforts to embed the management practice of evaluating program effectiveness, as an essential part of its support for program evaluation.

The 2006 *Federal Accountability Act* enacted into law a requirement that all grant and contribution programs be evaluated every five years. The new Policy on Evaluation that came into effect in 2009 extends the requirement for evaluation to cover all direct program spending over a five-year cycle.

We examined how evaluation units in six departments identify and respond to the various needs for effectiveness evaluations. We also looked at whether they have built the required capacity to respond to those needs. In addition, we looked at the oversight and support role of the Treasury Board of Canada Secretariat in monitoring and improving the evaluation function in the government, specifically with respect to effectiveness evaluations. The period covered by our audit was 2004 to 2009.

### Why it's important

Governments are under continual pressure to spend money on a range of programs designed to serve particular needs of society. While many factors affect the decisions that governments must ultimately make about programs, effectiveness evaluations can aid their decision making by providing objective and reliable information that helps identify programs that are working as intended; those that are no longer needed; and those that are not accomplishing the desired objectives and could be replaced by programs that will achieve the objectives more cost-effectively. In addition, effectiveness evaluation is expected to serve the information needs of parliamentarians.

One of the most important benefits of effectiveness evaluation is to help departments and agencies improve the extent to which their programs achieve their objectives. Departments need to demonstrate to Parliament and taxpayers that they are delivering results for Canadians with the money entrusted to them.

### What we found

- The six departments we examined followed systematic processes to plan their effectiveness evaluations and completed most of the evaluations they had planned. However, over the audited period, each department's evaluations covered a relatively low proportion of its total program expenses—between five and thirteen percent annually across the six departments.
- In effect, the rate of coverage was even lower because many of the effectiveness evaluations we reviewed did not adequately assess program effectiveness. Often departments have not gathered the performance information needed to evaluate whether programs are effective. Of the 23 evaluation reports we reviewed, 17 noted that the analysis was hampered by inadequate data, limiting the assessment of program effectiveness.
- The departments we examined told us that it remains a challenge to find experienced evaluators, and they have made extensive use of contractors to meet requirements. Departments expressed concern about their capacity to start in 2013 to evaluate all direct program spending, as required by the 2009 Policy on Evaluation. To ensure full coverage (which includes grants and contributions), they will have to evaluate an average of 20 percent of their direct program spending each year of the five-year cycle.
- The Treasury Board of Canada Secretariat introduced initiatives over the past few years to address the need for improvements in evaluation across the government. However, it did not provide sustained support for effectiveness evaluation. In particular, it made little progress on developing tools to assist departments with the long-standing problem of a lack of sufficient data for evaluating program effectiveness.
- With the exception of Environment Canada, which has processes in place to identify needed improvements, the audited departments do not regularly identify and address weaknesses in effectiveness evaluation.

**The Secretariat and the departments have responded.** The Treasury Board of Canada Secretariat and the departments agree with our recommendations. Their detailed responses follow each recommendation throughout the chapter.

## Introduction

**1.1** The 2009 Treasury Board Policy on Evaluation defines evaluation as “the systematic collection and analysis of evidence on the outcomes of programs to make judgments about their relevance, performance and alternative ways to deliver programs or to achieve the same results.” The objective of this policy is to create a comprehensive and reliable base of evaluation evidence that is used to support policy and program improvement, expenditure management, Cabinet decision making, and public reporting.

**1.2** Program evaluation is recognized as a key source of information on program effectiveness. This information is essential if senior officials are to base program and funding decisions on evidence of program effectiveness. Potential key users of evaluation findings include senior department officials, the managers of programs being evaluated, central agencies, and parliamentarians. The findings of program evaluation may also be of interest to program stakeholders and to the public.

**1.3** Program evaluation has been practised in the federal government, in one form or another, for close to 40 years. The Office of the Auditor General examined program evaluation in 1978, 1983, 1986, 1993, 1996, and 2000. The history of federal program evaluation from 1970 to 2000 reveals repeated initiatives at the centre of government to establish and support the function, and often critical observations by the Office of the Auditor General on the success of these efforts (Exhibit 1.1).

**1.4 The advent of results-based management.** In 2000, the Treasury Board of Canada Secretariat issued *Results for Canadians: A Management Framework for the Government of Canada*. It outlined a results-based management approach, which states that

departments and agencies need to implement an information regime that measures, evaluates and reports on key aspects of programs and their performance in core areas; holds managers accountable for achieving results; and ensures unbiased analysis, showing both good and bad performance.

**1.5** As we noted in our report from the same year (the December 2000 Report of the Auditor General of Canada, Chapter 20—Managing Departments for Results and Managing Horizontal Issues for Results), evaluation has an important role to play in managing for results. It can provide important information on program performance that is not

gathered by ongoing monitoring systems, and can help managers understand why programs are working or not.

**1.6** In 2001, the Treasury Board issued an evaluation policy, intended to reflect the results-based management philosophy expressed in *Results for Canadians*. The objective of this policy was to ensure that the government has information on the performance of its policies, programs, and initiatives that is timely, strategically focused, objective, and evidence-based. The Policy described evaluation as a

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**Exhibit 1.1 The history of federal program evaluation reveals many audit observations that are critical of government initiatives**

Year	Event
1970	The Treasury Board of Canada Secretariat established a Planning Branch to carry out interdepartmental studies of policy programs.
1977	The Treasury Board issued the first evaluation policy, which required departments to subject each program to effectiveness evaluation on a regular basis.
1978	The Auditor General's Study of Procedures in Cost-Effectiveness reviewed 23 programs in 18 departments, and found few successful attempts to evaluate their effectiveness.
1981	The Office of the Comptroller General developed a policy framework to guide and structure departmental evaluation functions, and established a team of liaison officers to give guidance and advice to departments in its implementation.
1983	The Auditor General's report found that although very real progress had been made in developing the program evaluation function since its 1978 study, few high-quality evaluations were being done.
1986	The Program Review carried out by the Nielsen Task Force found that the information received from program evaluations was "generally useless and inadequate."
1986	The Auditor General's follow-up to the 1983 audit concluded that there had been an improvement in the quality of methodology and reporting of program evaluation, but that problems regarding balance and full disclosure of limitations in methods still existed.
1993	The Auditor General found that "high expectations and great potential" had been only partly fulfilled: "The system's results are often disappointing. Program evaluations frequently were not timely or relevant. Many large-expenditure programs had not been evaluated under the policy ..."
1996	The Auditor General's follow-up to the 1993 audit found that little progress had been made to address effectiveness issues.
2000	The Auditor General found that the evaluation function had actually regressed, due in part to reductions in funding that undermined capacity.

management tool for the periodic assessment of a program's effectiveness in achieving objectives, of its impact and relevance, and of alternative ways to achieve expected results (cost effectiveness).

**1.7** In 2003, the Treasury Board of Canada Secretariat introduced the Management Accountability Framework, to assess management performance in departments, including program evaluation.

Subsequent guidance that was issued in 2007 to support the 2005 Policy on Management, Resources and Results Structure (MRRS), encouraged department heads of evaluation to provide advice on the Performance Measurement Framework embedded in their organization's MRRS. The Secretariat views the Framework and the policy requirements as an integrated approach to measuring management performance in departments.

**1.8 Focus on expenditure management.** More recent developments have placed renewed emphasis on the expenditure management role of program evaluation. As described in its 2007 and 2008 Budget documents, the federal government has introduced a new expenditure management system, a key pillar of which is the ongoing assessment of all direct program spending, known as strategic reviews. Strategic reviews are intended to ensure that programs are effective and efficient, meet the priorities of Canadians, and are aligned with core federal responsibilities. According to the Treasury Board of Canada Secretariat, program evaluation is a key source of information on program effectiveness in support of these reviews.

**1.9 The 2009 Policy on Evaluation.** The most recent development in federal program evaluation is a new policy that was approved in April 2009. In addition to supporting the renewal of the Expenditure Management System, by improving the information base for strategic reviews of departmental spending, the new policy requires that evaluations cover all **direct program spending** over a five-year cycle. Each year, departments will have to evaluate an average of 20 percent of their direct program spending to ensure full evaluation coverage, which includes grants and contributions programs. Larger departments and agencies must implement this requirement from 1 April 2013. Following a four-year transition period, the first cycle covers the 2013–14 to 2017–18 fiscal years. Smaller organizations, with fewer than 500 full-time equivalents and a **reference level** of less than \$300 million, are subject to the lesser requirement of ensuring coverage as appropriate. Accompanying the new policy is a directive on evaluation that defines the roles and responsibilities of department officials involved in evaluation, and standards that set minimum requirements for the quality, neutrality, and usefulness of evaluations.

**Direct program spending**—Includes operating and capital spending and grants and contributions, but does not include public debt charges and major transfers to persons or other levels of government.

**Reference level**—The amount of funding that the Treasury Board has approved for departments and agencies to carry out approved policies and programs for each year of the planning period.

**Effectiveness evaluation**—An assessment of the extent to which programs are relevant, produce impacts and outcomes, achieve their objectives, and are cost-effective. Other types of evaluation examine program implementation and management.

### Focus of the audit

**1.10** This was a government-wide audit that examined program evaluation in relation to the measurement of program effectiveness—**effectiveness evaluation**. The overall objective of this audit was to determine whether selected departments and the Treasury Board of Canada Secretariat are meeting the needs for effectiveness evaluation and are identifying and making improvements in effectiveness evaluation.

**1.11** The audit covered a five-year period, from the 2004–05 to 2008–09 fiscal years. Focusing on this period allowed us to examine the impact of Secretariat efforts, through a series of its studies, to understand how well the 2001 evaluation policy was working up to the 2004–05 fiscal year. We also examined selected departments' efforts to address any problems identified over the same period. Because the 2001 evaluation policy was replaced in April 2009, the audit did not focus directly on compliance with either policy.

**1.12** Detailed examination work was carried out in the Treasury Board of Canada Secretariat and in six departments:

- Agriculture and Agri-food Canada,
- Canadian Heritage,
- Citizenship and Immigration Canada,
- Environment Canada,
- Fisheries and Oceans Canada, and
- Human Resources and Skills Development Canada.

**1.13** More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### Meeting needs for effectiveness evaluation

**1.14** Well-managed organizations operate according to a management cycle for continuous improvement consisting of planning, doing, checking, and improving. We looked for evidence that the audited departments planned their effectiveness evaluations to meet identified needs, executed these plans, checked to see that needs were met, and made improvements where required. We followed a similar approach in relation to the Treasury Board of Canada Secretariat's oversight and support role (paragraphs 1.63–1.93).

**1.15** We found that, in light of their limited evaluation coverage and reliance on insufficient performance information, departments were not able to demonstrate that they are fully meeting needs for effectiveness evaluation.

#### **The need for effectiveness evaluations continues to grow**

**1.16** When departments plan their effectiveness evaluation work, they must first identify the needs for these evaluations. Heads of evaluation in the six departments told us that they based those needs on both government-wide requirements and internal corporate risk-based needs.

**1.17** The government views evaluation as the primary source of neutral and systematic information on the ongoing relevance and performance of policies and programs. It also expects evaluation to show alternative ways of achieving expected results and program design improvements. Government-wide requirements for effectiveness evaluations are defined both in statute and in policy (Exhibit 1.2).

**1.18** According to the Treasury Board of Canada Secretariat, a critical need for effectiveness evaluation arises from the strategic review process in the Expenditure Management System. Organizations are required to conduct strategic reviews of direct program spending every

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#### **Exhibit 1.2 Government-wide requirements for effectiveness evaluation appear in both statutes and policies**

The 2000 Policy on Transfer Payments (revised in 2008) required departments to review and report on the effectiveness of transfer payments when requesting renewal of program terms and conditions. The *Financial Administration Act* (amended in 2006) requires departments to conduct a review every five years of the relevance and effectiveness of each ongoing program of grants or contributions for which they are responsible.

The 2001 Treasury Board Evaluation Policy advised that evaluations should consider the relevance, success, and cost-effectiveness of programs.

Approved program funding may be subject to specific conditions in Treasury Board submissions and memoranda to Cabinet requiring the department to evaluate the program and report back to the Treasury Board or Cabinet before a set deadline.

In the 2007 Budget, the Government announced its new Expenditure Management System (EMS), including enhanced requirements for evaluation.

As of April 2007, evaluation of effectiveness is required for selected new federal regulations.

The 2009 Treasury Board Policy on Evaluation requires that all evaluations that are intended to count toward coverage requirements address value for money by including clear and valid conclusions about the relevance and performance of programs.

four years to ensure that the government is directing its resources to the highest priority requirements.

**1.19** In addition to these government-wide requirements, heads of evaluation identified internal corporate risk-based needs for effectiveness evaluations that respond to departmental priorities and to the priorities of government. These priorities are typically defined through consultation with senior departmental management.

**1.20** Between 2004 and 2009, the need for effectiveness evaluations had grown. This was largely due to measures the government brought forward under the *Federal Accountability Act* in 2006. This Act introduced an amendment to the *Financial Administration Act* requiring that, every five years, all ongoing non-statutory grant and contribution programs be evaluated or reviewed for relevance and effectiveness.

#### **Departments have systematic processes to plan effectiveness evaluation**

**1.21** In light of the many needs for effectiveness evaluation and their potential importance in informing decision making, it is critical that departments consider these needs when making program evaluation plans.

**1.22** We expected program evaluation plans in the six departments to consider both government-wide requirements and corporate risk-based needs for effectiveness evaluation. We found that all departments had developed risk-based plans during the audited period (some started in the 2004–05 fiscal year and others started in 2005–06). Most of these plans are produced annually, and most of the recent ones cover a five-year period. We found evidence that, to identify corporate priorities, each department consulted its senior management and its various program areas when developing its evaluation plans. We also found that all departments—except Agriculture and Agri-Food Canada and Citizenship and Immigration Canada—had processes in place to identify and track requirements for grant and contribution renewals in Treasury Board submissions.

#### **Expenditure management needs were not adequately considered**

**1.23** Officials in the six departments told us that the need for strategic review in the Expenditure Management System had not been a key consideration during previous years' evaluation planning. However, they told us that this need is now being considered when preparing their evaluation plans. To date, of the six departments audited, only Canadian Heritage (in 2007) and Agriculture and Agri-Food Canada

(in 2008) have completed a strategic review. Officials at Fisheries and Oceans Canada and at Canadian Heritage informed us that they plan to undertake evaluations in preparation for the next strategic review.

### Departments complete most planned evaluations

**1.24** To meet the needs for effectiveness evaluations, we expected the six departments to have conducted the evaluations that they had identified in their plans. We found that most of the evaluations planned by the six departments were carried out (Exhibit 1.3). Department officials told us that some evaluations were not completed for a variety of reasons, including program cancellations and redesign, limited data availability, and changes in internal client needs (for example, senior management and program managers) and evaluation capacity. Officials at Human Resources and Skills Development Canada informed us that, because many of the evaluations not completed during the audit were multi-year evaluations with planned completion dates beyond our audit period, they projected a higher completion rate.

#### Exhibit 1.3 Most of the planned evaluations were completed

Department	Number of planned evaluations*	Number and percentage completed **
Canadian Heritage	48	42 (88%)
Fisheries and Oceans Canada	30	24 (80%)
Environment Canada	29	23 (79%)
Citizenship and Immigration Canada	21	15 (71%)
Agriculture and Agri-Food Canada	25	14 (56%)
Human Resources and Skills Development Canada	64	34 (53%)

\* Based on departmental evaluation plans between the 2004–05 and 2007–08 fiscal years.

\*\* Based on listings of evaluations provided by departments in their 2004–05 to 2007–08 plans, which were completed by 30 April 2009.

### Evaluation coverage of programs is limited

**1.25** While the 2009 Policy on Evaluation requires departments to evaluate all direct program spending, there was no such requirement during the period of our audit. The Treasury Board of Canada Secretariat required departments to conduct evaluations based on risk. We noted that the Secretariat encouraged departments to embed

program evaluations into program management and ensure adequate evaluation coverage of programs. The six departments followed systematic processes when they planned evaluations, including effectiveness evaluations. However, within the departments we found that a low proportion of total program expenses were evaluated.

**1.26** We examined the data that the six departments provided to the Treasury Board of Canada Secretariat as part of the Annual Capacity Assessment Survey, including information on the annual expenses of evaluated programs. We compared these program expenses to total departmental program expenses for that year. We found wide variation across the six departments in their evaluation coverage of their program expenses (Exhibit 1.4).

**Exhibit 1.4** A low proportion of total program expenses were evaluated between the 2004–05 and 2007–08 fiscal years

Department	Estimated average annual percentage of program expenses evaluated
Canadian Heritage	13%
Agriculture and Agri-Food Canada*	11%
Environment Canada	9%
Fisheries and Oceans Canada	8%
Citizenship and Immigration Canada	6%
Human Resources and Skills Development Canada*	5%

\* Agriculture and Agri-Food Canada and Human Resources and Skills Development Canada each carried out evaluation work that included several programs. This has increased their coverage.

Sources: Treasury Board of Canada Secretariat Annual Capacity Assessment Survey, descriptive information provided by departments, and Public Accounts of Canada

**1.27** Our calculations showed that Canadian Heritage had the highest percentage of program expenses that were evaluated compared with the other audited departments. Notably Canadian Heritage also has the highest percentage of expenses on grant and contribution programs, which amounted to 80 percent of its total expenses in the 2007–08 fiscal year. According to the requirement under the *Financial Administration Act*, departments have until the 2011–12 fiscal year to evaluate all of their ongoing, **non-statutory grant and contribution programs** that were in existence in December 2006.

**1.28** As well, the requirements for renewals of grants and contributions occur in a concentrated period. For example, officials at Citizenship and Immigration Canada told us that it is challenging for them to meet their

**Non-statutory grant and contribution programs**—Programs whose spending authority is provided in an appropriation act that is voted on in Parliament in the Main and Supplementary Estimates, as opposed to programs whose spending authority comes from other legislation.

evaluation requirements because the majority of grant and contribution programs come up for renewal at the same time, creating a spike in the evaluation unit's workload. However, the Department indicated that these requirements were met over the period of our audit. We noted that, in the 2009–10 fiscal year, its evaluation unit plans to evaluate about 90 percent of its grant and contribution expenses, leaving little capacity to respond to other needs.

### **Evaluations do not adequately assess effectiveness**

**1.29** The quality of evaluation methods is a long-standing concern in the federal government. In 2005, the Treasury Board of Canada Secretariat reviewed the quality of evaluation reports to determine whether they had improved. The review noted that, while evaluation reports had improved in quality since 2002, there remained a “pressing need for further improvement.”

**1.30** Evaluation practitioners employ a range of methods. There are no universally accepted minimum standards for effectiveness evaluation. However, both the 2001 and 2009 Treasury Board policies on evaluation refer to the need to collect reliable data to support evaluation findings. The 2001 policy refers to objective data collection and analysis, while the 2009 Standard on Evaluation requires that evaluations be based on “multiple lines of evidence, including evidence produced from both quantitative and qualitative analysis.”

**1.31** Both policies recognize that the level of methodological rigour should reflect the intended use of the findings. In addition, in programs with low materiality, less rigorous methods may be appropriate.

**1.32** In 2005, the Treasury Board of Canada Secretariat found that evaluations tended to rely mainly on information from stakeholder interviews, file and document reviews, case studies, and surveys. The Secretariat also found that information from ongoing program performance measurement tended to be unavailable or insufficient to effectively support evaluations. According to the Secretariat, this was because few programs had reliable systems for collecting and reporting this information. The Secretariat's review concluded that the lack of program performance data reduces the overall quality of evaluation reports.

**1.33** When data is not available, evaluators may have to collect it themselves, or find alternative sources for the information, and their ability to apply the appropriate methods may be constrained. Using a variety of methods, both quantitative and qualitative, is important

to ensure that evaluation methods generate enough reliable evidence. Unreliable data reduces confidence in the usefulness of evaluation measurements.

**1.34** We reviewed a sample of 23 evaluations identified by the six departments as addressing effectiveness to determine the types of data collected to support evaluation findings. We found that, of the 23 evaluations, 17 explicitly stated that program performance information was lacking because data was unavailable or was not sufficiently reliable. As a result, in 9 of 17 cases, the evaluations indicated that they were limited in their assessment of program success and effectiveness. Furthermore, in 6 of the 17 cases, the assessment was primarily based on interviews with program staff and stakeholders (Exhibit 1.5).

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**Exhibit 1.5 Some effectiveness evaluations have insufficient performance information**

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**Agriculture and Agri-Food Canada.** The Department's Prairie Grain Roads Program operated between April 2001 and March 2006 with an average annual budget of \$35 million. The program was meant to assist Prairie provinces to address increased pressure on rural roads by improving roads, increasing truck tonnage capacity, and also increasing safety for road users.

Completed in 2006, this \$103,600 evaluation was to determine the program's results and impacts, adequacy of design, continued relevance, and cost-effectiveness. Achieving these objectives was hindered by the program's lack of performance measures to determine its effectiveness. It was not possible to know, for example, whether road safety had improved as a result of the program.

Claims of improved safety were primarily based on interviews and satisfaction ratings from successful program applicants. If performance measures had been implemented from the outset of the program, more complete conclusions on the effectiveness of this program could have been reached.

**Citizenship and Immigration Canada.** The Department's Private Sponsorship of Refugees Program, which began in 1978, is intended to assist refugees to settle and build new lives in Canada through sponsorship by Canadian citizens. The annual budget of the program is approximately \$5 million.

The most recent evaluation of this program was done in 2007 at a cost of \$268,000. The evaluation was intended to examine the program's continued relevance, success in achieving outcomes as identified in its results-based management accountability framework, and its cost-effectiveness.

This evaluation used data originating from a wide range of sources, including statistical information from both the department and Statistics Canada. As a result, the evaluation was able to more objectively document the extent to which refugees were finding employment, accommodation, and essential services.

**Fisheries and Oceans Canada.** In 2006, the Department completed an evaluation of its Program for Sustainable Aquaculture. The program was launched in 2000; it had an annual budget in the 2008–09 fiscal year of \$15 million. The objective of this program is to foster growth of a sustainable and competitive aquaculture industry and to increase public confidence in aquaculture.

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**Exhibit 1.5 Some effectiveness evaluations have insufficient performance information (continued)**

The stated purpose of this \$98,600 evaluation was to examine the relevance, success, and cost-effectiveness of the program. However, the evaluators acknowledged that there was no ongoing monitoring system to track program results. For example, because there was limited information on the impact of aquaculture on human health, it was not possible to determine whether related program objectives were achieved.

Without this information, many of the evaluation's conclusions were based on interviews with federal officials and industry representatives, as well as on document and file reviews. As a result, this evaluation did not adequately address the effectiveness of the program.

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**1.35** The heads of evaluation in all six departments confirmed that performance information they needed to evaluate whether programs are cost-effective and are achieving expected results was often insufficient. The development and implementation of ongoing performance measures is the responsibility of program managers, not departmental evaluation units.

**1.36** Due to the weaknesses in performance information and the need to apply appropriate evaluation methods, the actual coverage of departmental programs by effectiveness evaluations is even more limited than shown in this audit (Exhibit 1.4). Based on our sample, three quarters of the evaluations were hampered in their assessment of program effectiveness because of inadequate data.

**1.37 Recommendation.** Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Environment Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada should develop and implement action plans to ensure that ongoing program performance information is collected to support effectiveness evaluation.

**Agriculture and Agri-Food Canada's response.** Agreed. The Department agrees that the systematic collection of program performance data by managers is necessary to report on program performance and to support effectiveness evaluations.

As required by the Treasury Board Policy on Transfer Payments, a performance measurement strategy for ongoing management of transfer payment programs, including performance measures and indicators and a data collection strategy, is developed for each new transfer payment program.

The Department's evaluation function reviews program performance measurement strategies as they are developed to ensure that outcomes are defined, measurable, and attributable and that the strategies, if implemented, are sufficient to support future evaluation work.

Beginning in the 2009–10 fiscal year, the Department will conduct annual state of performance measurement reviews. The first such review will assess performance measurement practices at the Department and the adequacy of data collected for programs soon to be evaluated. An action plan to address its recommendations will be developed and its implementation monitored with a view to strengthening the Department's practices in this area.

**Canadian Heritage's response.** Agreed. The Department is executing its Action Plan for Implementation of the Management, Resources and Results Structures (MRRS) Policy to ensure that program staff are able to fulfill their responsibility for developing and maintaining performance measurement strategies. Action plan measures include

- the provision of information sessions and workshops,
- the establishment of indicators and corresponding targets,
- the development of robust methodologies to demonstrate outcomes,
- the establishment of a centre of expertise on performance measurement within the Department,
- the design and implementation of adequate tools and guidelines,
- the establishment of relevant information technology and systems, and
- the regular analysis and reporting of collected data.

This action plan is expected to be completed by end of the 2011–12 fiscal year.

The Department's Office of the Chief Audit and Evaluation Executive is continually providing advice and support to Department managers in their efforts to implement this action plan. In line with the Transfer Payment Policy, this office is also providing timely advice and support on program design and performance measurement strategies through the review of official approval documents for the creation and renewal of new or existing programs. Finally, as required under the new Evaluation Policy, the office will be submitting, in the 2010–11 fiscal year, its first annual report to the Departmental Evaluation Committee on the state of performance measurement in the Department.

**Citizenship and Immigration Canada's response.** Agreed. The Department recognizes the value of ongoing performance information for evaluation and will continue to support related departmental activities. The Department will develop an action plan that includes the renewal of the comprehensive departmental performance measurement framework and program activity architecture, and furthers the integration of the Framework into the business planning process.

**Environment Canada's response.** Agreed. The Department accepts this recommendation, which echoes the intent of the 2009 Evaluation Policy related to performance information. As such, actions are already under way within Environment Canada to implement this recommendation. These include ongoing monitoring of the implementation of management responses to previous evaluations that have identified concerns with performance information, and the development and implementation of a strategy to inform all department managers of the Evaluation Policy requirements pertaining to performance measurement.

In addition, the Department's evaluation plan will be expanded to include a monitoring component to verify, within available resources, the status of performance data collected in the department and whether sufficient performance information will be available to support upcoming evaluations. This monitoring component will be included in the 2010–15 Evaluation Plan and will be updated annually thereafter.

Further, for the 2010–11 fiscal year, the Department's performance measurement framework has been linked to the Department's program activity architecture, in that performance measures have been identified for all programs.

**Fisheries and Oceans Canada's response.** Agreed. The Department's performance measurement framework links its core indicators to the departmental program activity architecture (PAA), thus identifying performance measures for all program activities and sub-activities. Each fiscal year, the Department conducts an analysis of the state of performance measurement in the Department and provides an annual report to the Departmental Evaluation Committee. In addition, the Department will develop and implement an action plan to ensure that ongoing program performance information is collected to support effectiveness evaluation by the end of August 2010.

**Human Resources and Skills Development Canada's response.** Agreed. The Department accepts this recommendation that echoes the intent of various Treasury Board of Canada Secretariat policies,

including the 2009 Evaluation Policy. As such, the Department already gathers and monitors ongoing performance information to support effectiveness evaluation, including

- monitoring implementation of management responses to previous evaluations that have identified data issues for current programs;
- undertaking early evaluative work in advance of the formal initiation of effectiveness evaluations as part of the evaluation planning process, to review the state of performance data and logic models; and
- monitoring the implementation of new programs (for example, Economic Action Plan initiatives) to ensure the necessary administrative and performance data are available to support future evaluation activities.

The Department is also undertaking a comprehensive review, refinement, and validation of its Performance Measurement Framework (PMF) to make it more robust and comprehensive, to support ongoing planning, monitoring, and managing for results and the Evaluation Directorate has been actively involved in this work. The progress made on the departmental PMF will support both performance monitoring as well as evaluation of relevance and effectiveness.

### Some quality assurance processes are in place

**1.38** Quality assurance processes are designed to ensure that quality requirements are being met. In the case of effectiveness evaluation, quality assurance helps to ensure that reports meet defined standards and provide decision makers with reliable and useful evaluation findings.

**1.39** We expected the six departments to demonstrate that they had developed systematic quality assurance processes for their effectiveness evaluations. We found that all six departments had quality assurance processes in place. While these processes were not identical in design, we identified a number of common elements: internal evaluation standards, internal review, and external expert review. All six departments did internal reviews and all but two (Agriculture and Agri-Food Canada and Fisheries and Oceans Canada) used external experts, either routinely or on a selective basis, to review for quality assurance. Despite these quality assurance processes, we found that three quarters of the evaluations in our sample failed to adequately address effectiveness.

**1.40** Quality assurance processes may also support the independence of the evaluation unit from program management. Through its 2001 and 2009 evaluation policies, the Treasury Board acknowledged that having a departmental evaluation committee approve evaluation plans and reports supports independence, because these plans and reports are reviewed objectively by department officials who are not program managers.

**1.41** We examined the processes that the six departments followed to review and approve evaluation plans and reports. In all six departments, both plans and reports are approved by senior evaluation committees.

**1.42** We note that, unlike evaluation committees, the departments' audit committees are required to have external members. In our view, this is a good practice, because the knowledge and perspectives of practitioners from outside government are being considered. This practice could also have merit for evaluation committees. Under the 2009 Policy on Evaluation, evaluation committees are required to review evaluation plans and reports and recommend their approval by the deputy head. Committees with external members could play a stronger role in the continuous improvement of effectiveness evaluation.

**1.43 Recommendation.** Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Environment Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada should consider the merits of including external experts on their departmental evaluation committees. The Treasury Board of Canada Secretariat should provide guidance to departments in this regard.

**Agriculture and Agri-Food Canada's response.** Agreed. The Department has recently introduced a number of practices to ensure production of strong evaluation reports. They include seeking input from external experts on evaluations in progress. The Department will also consider including external members on its Departmental Evaluation Committee, in the context of guidance provided by Treasury Board of Canada Secretariat.

**Canadian Heritage's response.** Agreed. At the Department, oversight of the evaluation function is provided by the Strategic Policy, Planning and Evaluation Committee (SPPEC), chaired by the Deputy Head. This structure provides opportunities for enhanced integration between the policy, planning, and evaluation functions of the Department. As well, the Department already brings key evaluation

reports when necessary to its department audit committee for review and discussion. The Department will collaborate with the Treasury Board of Canada Secretariat's Centre of Excellence in Evaluation to assess the value added of integrating the advice of external evaluation experts to inform the work of departmental evaluation committees.

**Citizenship and Immigration Canada's response.** Agreed. The Department will assess the benefits of including an external evaluation expert on the departmental evaluation committee.

**Environment Canada's response.** Agreed. The Department accepts the recommendation and will await guidance from the Treasury Board of Canada Secretariat on the inclusion of external members on departmental evaluation committees.

**Fisheries and Oceans Canada's response.** Agreed. The Department will consider the merit of including external members on its department evaluation committee, in the context of guidance provided by the Treasury Board of Canada Secretariat.

**Human Resources and Skills Development Canada's response.** Agreed. The Department has, in the past, included members from outside the Department on its departmental evaluation committee. The Department will reconsider the formal inclusion of external experts on the current Departmental Evaluation Committee and will look to the Treasury Board of Canada Secretariat for guidance on this part of the Evaluation Policy.

**The Treasury Board of Canada Secretariat's response.** Agreed. The Secretariat agrees that it should provide guidance to departments on the possible merits of including external experts on their departmental evaluation committees. These actions will be completed by 31 March 2010.

### **Departments are not systematically identifying priorities for improvement**

**1.44** The Treasury Board of Canada Secretariat carries out annual assessments of department management using indicators that measure each of the 10 elements of the Management Accountability Framework. Among these elements are assessments of evaluation coverage, quality, and use. According to the Secretariat, these assessments help deputy heads identify priorities for management improvement. In addition to these assessments, we expected the six departments to have their own internal processes for determining whether they are meeting needs for effectiveness evaluations.

**1.45** As noted earlier (paragraph 1.22), we found that all departments have consultation processes aimed at ensuring that their evaluation plans reflect corporate priorities. In addition, we did see other improvements in some departments, although these were not systematic in nature. Only Environment Canada has a formal process in place to systematically identify aspects of its evaluation practice that require improvement. Environment Canada does a number of things to help ensure that its evaluation practice is oriented toward continuous improvement. For example, client feedback is solicited through post-evaluation surveys that provide ongoing feedback on the quality and value of evaluations.

**1.46** In addition, when Environment Canada's evaluations are completed, lessons-learned exercises are often developed and shared with managers of similar programs and initiatives to enhance the overall utility of evaluation findings. The evaluation unit also developed a self-assessment framework for quality assurance that is based on a self-assessment guide for internal audit. The unit adapted some elements in the guide to apply them to evaluation and it also considered existing standards for evaluation. The results of these activities are communicated to the evaluation committee.

**1.47** With the exception of Environment Canada, the audited departments could not demonstrate that they have internal processes in place to systematically identify areas for improvement in effectiveness evaluation over the 2004–05 to 2008–09 period. Such a process enables departments to ensure that effectiveness evaluations are following the management cycle for continuous improvement and becoming more useful for making key decisions.

**1.48 Recommendation.** Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada should implement systematic processes to determine whether their effectiveness evaluations are meeting government-wide requirements and internal corporate needs, and act on areas identified for improvement. The Treasury Board of Canada Secretariat should monitor and provide any additional support it considers necessary for the implementation of these processes.

**Agriculture and Agri-Food Canada's response.** Agreed. The Department accepts this recommendation and notes that in the past year, it has introduced a number of systematic processes, which together will ensure effectiveness evaluations address senior management information needs in a timely manner. They include

annual consultations on evaluation priorities, requests for feedback on completed evaluations, and annual Head of Evaluation reports on the performance of the evaluation function.

**Canadian Heritage's response.** Agreed. The Department recognizes the need to establish systematic processes to assess whether effectiveness evaluations are addressing needs. The Evaluation Services Directorate is already developing a performance measurement framework and management strategy to identify clear performance expectations and standards for the Department's evaluation function. A systematic process to collect, analyze, and report on performance data and client satisfaction will be implemented in order to identify areas of improvements. Based on data collected during the first year of implementation (the 2010–11 fiscal year), periodic reporting to the Departmental Evaluation Committee should begin by the 2011–12 fiscal year. This performance information will complement data already reported in the context of the annual management accountability framework assessments conducted by the Treasury Board of Canada Secretariat.

**Citizenship and Immigration Canada's response.** Agreed. The Department will assess the need for systematic processes in addition to the Management Accountability Framework assessment process, the oversight of the Departmental Evaluation Committee, requirements for annual reporting, and the Department's evaluation process, which includes several steps of consultation and feedback from the Department's branches.

**Fisheries and Oceans Canada's response.** Agreed. The recommendation echoes the intent of the 2009 Policy on Evaluation. As such, actions are already under way within the Department to implement a systematic process to determine whether effectiveness evaluations are meeting internal corporate needs and government-wide needs (i.e., a strategic review) and to act on areas identified for improvement. Further work in this area will be completed in the context of guidance provided by the Treasury Board of Canada Secretariat.

**Human Resources and Skills Development Canada's response.** Agreed. The Department currently employs a variety of systematic processes to ensure the quality and relevance of its evaluations for both internal and government-wide needs. External peer reviewers and evaluation advisory committees are a mandatory element of the evaluation work to ensure that evaluations are meeting information needs. Further work in systematically determining whether evaluations

are meeting government and senior management needs will be developed, building upon the current annual Management Accountability Framework assessment process led by the Treasury Board of Canada Secretariat. Areas for improvement will be identified and reported to the Departmental Evaluation Committee.

**The Treasury Board of Canada Secretariat's response.** Agreed. The Secretariat agrees that it should assist departments as necessary in their implementation of processes to determine whether evaluations are meeting government-wide needs and should provide support to departments that it considers necessary.

The new Treasury Board Policy on Evaluation, which came into effect on 1 April 2009, includes specific requirements to enhance evaluation coverage and examination of program effectiveness as well as performance information to support evaluations. The policy calls on the Secretary of the Treasury Board to provide functional leadership for evaluation across government, including monitoring and reporting annually to the Treasury Board on the health of the evaluation function.

The Secretariat currently carries out a large portion of this work through the annual Management Accountability Framework assessment process, which the Office of the Auditor General acknowledges was not covered by the current audit. The Secretariat communicates recommended areas for improvement in evaluation through the assessment reports that it sends to the deputy heads of departments and agencies, who are responsible for the evaluation function in their respective organizations.

## Capacity for effectiveness evaluation

**1.49** We define capacity as sufficient qualified evaluation staff and funding to meet needs for effectiveness evaluation. We examined staffing and funding for program evaluation in the six departments over the five-year period audited to determine whether they were able to hire enough staff and to address areas for improvement.

**1.50** We found that, despite having increased funding and staffing, the audited departments found it challenging to hire enough qualified, experienced evaluation staff to meet needs for effectiveness evaluation, and they had not been able to regularly address areas for improvement.

### Funding increases have enhanced departments' capacity for evaluation

**1.51** Evaluation unit funding increased over the audit period in all departments audited except Fisheries and Oceans Canada

(Exhibit 1.6). This includes funding from the Treasury Board that is intended to enable departments to implement the 2001 Evaluation Policy, and funding provided following the enactment of the *Federal Accountability Act* for the evaluation of all ongoing grant and contribution programs.

**Exhibit 1.6 Evaluation unit funding increased in most departments**

Department	Unit funding in 2004–05	Unit funding in 2008–09
Agriculture and Agri-Food Canada	\$1,029,000	\$1,894,000
Canadian Heritage	\$2,499,000	\$3,123,000
Citizenship and Immigration Canada	\$650,000	\$1,987,000
Environment Canada	\$732,000	\$1,383,000
Fisheries and Oceans Canada	\$1,248,000	\$1,162,000
Human Resources and Skills Development Canada	\$10,750,000	\$13,924,000

Source: Data collection forms completed by departments

### Shortage of experienced evaluators continues

**1.52** The shortage of experienced program evaluators in the federal government is a long-standing concern. It has been noted in past Office of the Auditor General audits and in diagnostic studies by the Treasury Board of Canada Secretariat, and it was the subject of recent discussions within the federal evaluation community. A 2005 report by the Secretariat Centre of Excellence for Evaluation stated that “[t]he scarcity of evaluation personnel is probably the number one issue facing Heads of Evaluation.”

**1.53** We found that during the period covered by this audit, the number of professional staff working in the evaluation units in the six departments had increased substantially (Exhibit 1.7). This trend was also evident in our analysis of descriptive data provided by the remaining large federal departments and agencies, which we did not audit.

**1.54** According to officials in the six departments, despite these increases in both funding and staff, it remains a challenge to find experienced evaluators, particularly at the senior levels. In their view, the shortage of experienced evaluators has affected their ability to hire the people they need. For example, in one collective staffing process, the pool of experienced evaluators was depleted before the demand

was met. They also indicated that the shortage of experienced evaluators has led to evaluators being hired away by other federal evaluation units.

**Exhibit 1.7** The estimated number of evaluation unit professional staff increased in each department between the 2004–05 and 2008–09 fiscal years

Department	Number of professional staff in 2004–05*	Number of professional staff in 2008–09*
Agriculture and Agri-Food Canada	6.0	11.0
Canadian Heritage	8.1	13.0
Citizenship and Immigration Canada	3.3	12.5
Environment Canada	4.0	10.0
Fisheries and Oceans Canada	4.0	7.0
Human Resources and Skills Development Canada	44.5	54.0
Other large departments	176.3	296.7

\* Full-time equivalents

Source: Data collection forms completed by departments

### Evaluator competencies are not adequately defined

**1.55** In diagnostic studies carried out by the Secretariat in 2005, deputy heads of departments identified the shortage of qualified evaluators as contributing to the inconsistent quality of evaluations. Competency profiles can help address this gap, by identifying training and development needs and by informing staffing efforts. We examined whether the six departments had addressed the challenge of finding the right people to do the work, by developing competency profiles for their evaluation unit staff.

**1.56** Officials told us that they had begun to develop competency profiles. However, these efforts were discontinued, while the Secretariat undertook related work that recently resulted in a draft competency profile. The development of these profiles has been hindered by the lack of agreement about the required competencies of evaluators.

### Other responsibilities of evaluation units put pressure on capacity

**1.57** According to the Secretariat, evaluation units have assumed a number of responsibilities in addition to the traditional evaluation studies, including

- preparing evaluation planning reports and assessments,
- developing results-based management accountability frameworks, and
- providing advice and training to program managers on evaluation and performance measurement.

**1.58** We interviewed officials in the six audited departments to find out how much time is spent conducting effectiveness evaluations. We found that Environment Canada is the only department that conducts formal time recording of evaluation unit tasks. It was also the only department that was able to provide us with detailed data, from which we determined that about 40 percent of its time was spent on tasks other than evaluation.

**1.59** The estimates provided by the other departments indicated that they spent about the same amount of time on such tasks. While we recognize the potential value and importance of these other tasks, they nevertheless have an impact on the capacity of evaluation units to meet identified needs for effectiveness evaluation.

### Departments use contractors extensively

**1.60** Another diagnostic study reported that a sample of deputy heads thought that evaluation units could make a more significant contribution and could strengthen staff capacity, by conducting more evaluations in-house. According to this study, deputy heads were concerned that contracting out evaluation studies prevents evaluation units from becoming their department's subject matter experts, since much of what is learned remains with the contractor and not with the unit.

**1.61** We looked at the evaluations conducted by the six audited departments during the audited period, between the 2004–05 and 2008–09 fiscal years, to determine whether they were conducted by contractors, in-house employees, or both. While about 90 percent of the evaluations were wholly or partially conducted by contractors (Exhibit 1.8), this varied among the audited departments. In Fisheries and Oceans Canada, for example, the figure was 37 percent, while in other departments the figures were close to 100 percent. This pattern

was also evident in our analysis of descriptive data provided by the remaining large federal departments and agencies, which we did not audit.

**Exhibit 1.8 Evaluations conducted by contractors in whole or in part in the audited departments**



\*Contractors' data includes evaluations they conducted both in whole or in part.

**1.62** Although officials recognized the value of developing in-house capacity, they also informed us that they required contractors for specific technical or subject matter expertise that was not feasible to maintain in-house.

## Oversight and support

**1.63** The Treasury Board of Canada Secretariat has described oversight as one of its central agency roles. Oversight includes policy development, monitoring, and reporting on management and budgetary performance within government. The Secretariat is responsible for the oversight of management policy development and the financial oversight of expenditure management. The Secretariat's other central agency roles are leadership in setting the agenda for management, and helping departments and agencies improve their performance.

**1.64** Under the 2001 Evaluation Policy, the Secretariat was required to provide central direction for the evaluation function by

- establishing a Centre of Excellence for Evaluation to provide leadership, guidance, and support to the practice of evaluation;

- using evaluation results, where appropriate, in decision making at the Centre;
- setting standards; and
- monitoring evaluation capacity in the government.

#### **The Secretariat has identified a number of improvements in evaluation**

**1.65** We expected the Secretariat to support government-wide evaluation practices by identifying needed improvements and determining and carrying out actions required of the Secretariat, to help to ensure that departments and agencies have the tools they need to achieve the desired results.

**1.66** In 2004, the Secretariat did an interim evaluation of the 2001 Evaluation Policy and found gaps in budget and human resources. This evaluation called for the Centre of Excellence for Evaluation to play a leadership role in helping the evaluation community, by

- advocating the importance of evaluation to senior managers for decision making;
- continuing to help with system-wide capacity building;
- continuing to develop training, tools, and guides to support policy implementation; and
- identifying best practices for the evaluation community.

**1.67** Between the 2004–05 and 2006–07 fiscal years, the Secretariat also carried out several diagnostic studies that included interviews with deputy heads, clients, and stakeholders, as well as inquiries into the professionalism and the overall role of evaluation in the federal government. These studies identified necessary improvements.

**1.68** We noted a number of specific initiatives related to evaluation and diagnostic studies, including new guidance and help given to departments for recruiting and training evaluators.

#### **The Secretariat carried out extensive monitoring of the evaluation function**

**1.69** By the 2004–05 fiscal year, the Secretariat had developed several monitoring tools to collect information about the evaluation function across government. Secretariat officials identified similar monitoring activities in 2009:

- annual capacity assessment survey;
- Evaluation Information Resource Component—a database;
- periodic in-depth review of the quality of evaluation reports;

- ongoing reviews of evaluations, results-based management accountability frameworks, and departmental evaluation plans;
- department and agency visits and interaction;
- feedback to individual entities;
- communication of best practices in evaluation methodology and reporting, and in managing the evaluation function;
- review of the evaluation content of departmental Estimates documents (Report on Plans and Priorities and the Departmental Performance Report); and
- Management Accountability Framework assessments.

**1.70** The Secretariat describes the Management Accountability Framework as one of several tools it uses to assess management performance in departments. Although we did not audit the Framework, we noted that the Secretariat has used it in several ways, including changing the Framework itself, for example, by refining the assessment ratings. Program sector analysts and analysts at the Centre of Excellence for Evaluation also cited the knowledge gained from the Framework's assessments as potentially helpful, as it could be used to improve guidance and tools, for example, in the development of the Standard on Evaluation that was issued with the 2009 Policy on Evaluation. However, we also noted that, because this knowledge was not always documented, its impact was not always clear.

**1.71** The Secretariat's first (and, to date, only) published report on the evaluation function—The Health of the Evaluation Function in the Government of Canada Report for Fiscal Year 2004–05—was based on the first of the annual capacity assessment surveys. These surveys are used to collect information on evaluation infrastructure, resources, production, and results and, for larger departments, to collect information on evaluation planning and resource requirements. The Secretariat has conducted the capacity assessment survey every year since the 2004–05 fiscal year.

**1.72** The diagnostic studies, the Health of the Evaluation Function Report, and ongoing monitoring provided an analytical base for the first Government of Canada Evaluation Plan, 2005–06, which was developed in September 2005. Once again, this was the only one of its kind; no other such plan appeared in the period ending 31 March 2009.

**1.73** The Secretariat carried out extensive monitoring. The value of this monitoring, of annually reporting on the evaluation function's

health (see paragraph 1.89), and of developing a government-wide plan, were recognized as requirements in the 2009 Policy on Evaluation, as well as in earlier drafts of the policy. However, over the period of our audit, the Secretariat developed only one such report and plan. For the purposes of continuous improvement, it will be important for the Secretariat to pursue these oversight activities, with departments, on a regular and systematic basis.

### **Sustained support for effectiveness evaluation is lacking**

**1.74** The Treasury Board's 2001 Policy on Evaluation advised that evaluations consider program relevance, success, and cost-effectiveness. We therefore expected the Treasury Board of Canada Secretariat to provide guidance to departments and to help them identify these elements and improve effectiveness evaluation.

**1.75** One area the Secretariat has clearly identified is the need to improve the use of evaluation for expenditure review. In 2005, a discussion document from the President of the Treasury Board, *Management in the Government of Canada: A Commitment to Continuous Improvement*, expressed concern that evaluation must become more directly linked to decisions regarding resource allocation.

**1.76** In our audit of the expenditure management system (EMS) (November 2006 Report of the Auditor General of Canada, Chapter 1—Expenditure Management System at the Government Centre), we recommended a systematic review of the relevance and value-for-money of ongoing programs. The Public Accounts Committee pursued this issue in 2008 by recommending that the Secretariat develop an action plan to hire and train the necessary evaluators and that it reinforce the importance of evaluation as a key requirement in the EMS.

**1.77** The government accepted these recommendations and launched the new expenditure management system that included strategic review. It viewed evaluation as the primary source of neutral and systematic information on the ongoing relevance and performance of policies and programs. In light of these developments, we looked for the Secretariat's actions and initiatives in support of effectiveness evaluation.

**1.78** We noted an initiative to develop a value-for-money tool for evaluation, launched as a pilot project in 2006. However, this initiative came to an abrupt halt in 2008 and, over the period of our audit, did not move beyond the pilot stage. The Secretariat found that the tool was being used to meet minimum data requirements, rather than the new policy's objective of examining effectiveness issues. As we

completed our audit, Secretariat officials informed us that the project is continuing its development and is being revised to take into consideration the requirements of the new policy on evaluation.

**1.79** The Centre of Excellence for Evaluation has undertaken a number of similar initiatives related to capacity development, but during our audit, we found that the results of these initiatives are unclear. We noted policy requirements and related initiatives for evaluators to support the measurement of program performance. However, we did not find that the Secretariat had made progress in developing tools to help departments address the long-standing problem of insufficient data for the evaluation of effectiveness.

**1.80** While the Secretariat recognized the value of effectiveness evaluation, particularly for expenditure management, it did not issue, over the period of our audit, adequate guidance or tools to support effectiveness evaluation.

**1.81** The renewal of the 2001 Policy on Evaluation took far longer than expected. We found documentation from 2006, 2007, and 2008 indicating the policy would be completed in each of these years. In fact, the new policy took effect only on 1 April 2009. However, at the time of our audit, despite the three years that were spent developing the policy, the Secretariat had not issued guidance to departments on its implementation.

**1.82 Recommendation.** In developing tools, guidance, and support for departments, the Treasury Board of Canada Secretariat should regularly identify gaps that it needs to act on, develop plans to address these gaps, and act on these plans.

**The Treasury Board of Canada Secretariat's response.** Agreed. The Secretariat is presently developing guidance for departments and agencies to support the implementation of the new Treasury Board Policy on Evaluation (April 2009). Guidance in a number of key areas, including departmental evaluation planning and performance measurement strategies, is expected to be available to departments and agencies by 31 March 2010. Further guidance will be issued over the course of the 2010–11 fiscal year.

During the past two years, the Treasury Board of Canada Secretariat has issued guidance on the development of performance measurement frameworks required under the 2005 Policy on Management Resources and Results Structures, which was not covered by the current audit. In addition, through its annual Management Accountability Framework assessments, the Secretariat provides

advice and support to departments on the quality and use of evaluation as well as on the quality of performance measurement frameworks associated with departmental Management, Resources and Results Structures.

The Secretariat continually consults with departments and agencies on their needs and monitors policy implementation to identify weaknesses within the government-wide evaluation function. Where the Secretariat determines a need to develop further tools, guidance, or other supports, it includes these activities in its business plans.

### **Oversight and support require experienced staff**

**1.83** We examined whether the Treasury Board of Canada Secretariat had the human and financial resources needed for government-wide oversight and support of the program evaluation function.

**1.84** The Centre of Excellence for Evaluation's major responsibilities include

- renewing the evaluation policy;
- acting as a policy centre, by providing advice and analysis to support the expenditure management system;
- conducting Management Accountability Framework assessments of the evaluation function; and
- providing support for the evaluation function across government.

**1.85** In addition, the Centre monitors the evaluation policy. Many of these tasks are analytical and call for experienced personnel. The review of evaluations, program accountability frameworks, and submissions requires sufficient expertise to provide recommendations and guidance to program sector analysts as well as to the Treasury Board itself.

**1.86** We compiled information on the Centre's workload and compared it to the resources allocated over the audit period. The funding for oversight work is largely salary-based. For the period of our audit, the staff complement of the Centre varied in size, from only 8 in the 2005–06 and 2006–07 fiscal years to 12 in the 2008–09 fiscal year. Overall, the staff levels during the 2005–06 to 2008–09 period were lower than the 15 on staff in the 2004–05 fiscal year, even though the Centre workload pertaining to its oversight activities was increasing. For example, the number of Treasury Board submissions reviewed by the Centre almost doubled from the 2004–05 to 2008–09 fiscal years.

**1.87** The Secretariat clearly requires experienced analysts with appropriate expertise in evaluation in order to meet workload demands. The limited number of staff allocated to these functions during the audited period may have contributed to the lack of sustained support for effectiveness evaluation.

**1.88 Recommendation.** The Treasury Board of Canada Secretariat should ensure that it allocates sufficient resources to tasks that require evaluation expertise.

**The Treasury Board of Canada Secretariat's response.** Agreed. In renewing the Policy on Evaluation, the Government has strengthened its commitment to evaluating the value for money of federal programs and reaffirmed the Secretariat's role of leading the evaluation function. In performing its functional leadership role established in the new policy, the Treasury Board of Canada Secretariat will ensure that the resources necessary for performing this role are considered and sufficient resources are allocated at the Secretariat to tasks that require evaluation expertise.

#### **Care is needed in the implementation of the new coverage requirements**

**1.89** By 2006, the Secretariat had completed its diagnostic work and issued its *Health of the Evaluation Function Report*. The Secretariat knew the challenges for the evaluation function associated with the legal requirement that all ongoing grant and contribution programs (a part of direct program spending) be evaluated, and that departments were hard pressed to meet it. The requirement was especially challenging for the audited departments that have a high proportion of such programs, but additional central funding was provided in 2007 to support meeting this coverage requirement. In particular, as the Secretariat itself noted, requiring full coverage made it more difficult to target evaluation efforts on the basis of risks. When the legal requirement was enacted in 2006, it created pressure for 100 percent coverage of all direct program spending, in parallel with the later reform of the expenditure management system.

**1.90** We noted that deputy heads of departments remain responsible for implementing the 2009 evaluation policy, including the expanded coverage requirements. It will be important for the Secretariat to work with departments to ensure that they are fully prepared to implement these coverage requirements, in order to meet the expectations set out in the new evaluation policy.

**1.91** The implementation of the new coverage requirement faces serious challenges. Earlier requirements for full coverage were never met. Current legal requirements for effectiveness evaluation of all grants and contributions programs have been difficult to meet, and department officials told us that they have concerns about their capacity to respond to these requirements. Moreover, we found a shortage of experienced evaluators and extensive use of contractors over the period audited. For example, Environment Canada estimated that it would have to double the complement of its evaluation unit over the next four years, or sacrifice evaluation depth in order to achieve full coverage.

**1.92** In our view, it will be important for the Secretariat and departments to carry out effectiveness evaluation of programs that are susceptible to significant change because of shifting priorities and circumstances. These are programs where evaluations of the relevance, impact, and achievement of objectives can be put to best use. During the transition to full coverage, these programs may present the biggest opportunities for effectiveness evaluation.

**1.93 Recommendation.** The Treasury Board of Canada Secretariat should help departments prepare to implement the new coverage requirements. During the transition period, the Secretariat should provide advice and guidance for effectiveness evaluation, focusing on programs where such evaluation can be put to best use.

**The Treasury Board of Canada Secretariat's response.** Agreed. The Secretariat is planning to issue written guidance for making risk-based choices for evaluation coverage to support departments during the transition period. This guidance is expected by 31 March 2010.

Throughout the transition period, the Secretariat will also help departments prepare to implement the new coverage requirements that come into effect after 31 March 2013. The Secretariat will provide leadership in the development and sharing of effective evaluation practices across departments, as well as support capacity-building initiatives in the evaluation function government-wide.

## Conclusion

**1.94** The six departments included in this audit—Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Environment Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada—followed

systematic processes to plan their effectiveness evaluations. As well, most planned evaluations were completed. However, the evaluations that were conducted by these departments only covered a low proportion of overall departmental expenses, and most of the evaluations we examined were hampered by inadequate data. As a result, departments were not able to demonstrate that they were sufficiently meeting needs for effectiveness evaluation.

**1.95** Based on a sample of effectiveness evaluations, we found that the audited departments often did not have the necessary performance information to evaluate whether programs are effective.

**1.96** Moreover, with the exception of Environment Canada, which has processes in place to identify needed improvements, the audited departments did not demonstrate that they had regularly identified and addressed areas for improvement in effectiveness evaluation during the audit period. Such a cycle of continuous improvement would steadily add value to effectiveness evaluation.

**1.97** The departments we examined expressed concerns about their capacity to implement evaluation of all direct program spending, as required under the 2009 Policy on Evaluation. Even before these expanded requirements, they found it challenging to hire enough experienced evaluators to fully meet needs for effectiveness evaluation, and they had not been able to regularly address areas for improvement. In our view, identifying programs where effectiveness information can be put to the best use will be a key part of implementing the coverage requirements of this policy.

**1.98** Over the past five years, the Treasury Board of Canada Secretariat has introduced initiatives to address improvements in evaluation. However, support for effectiveness evaluation, which is an important area for the Secretariat, did not receive sustained attention. While the Secretariat did regularly identify areas for improvement, it did not provide adequate guidance.

**1.99** Overall, we found that, in the six departments we audited, needs for effectiveness evaluation were not being adequately met. Improvements are required in departments, and in the oversight and support activities of Treasury Board of Canada Secretariat, in order to remedy the situation.

**1.100** These findings are similar to many reported by the Office in previous audits of program evaluation. Taken together, they raise basic questions about effectiveness evaluation in the federal government.

**1.101** In our view, the federal evaluation function is at a crossroads. A vital public purpose is served when effectiveness evaluation informs the important decisions that Canadians are facing. Departments face greater expectations than ever before and are taking on added responsibilities. Much remains to be done to meet the challenge. Continuous improvement is the way forward.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The overall objective of this audit was to determine whether selected departments and the Treasury Board of Canada Secretariat are meeting the needs for effectiveness evaluation and are identifying and making improvements in effectiveness evaluation.

The audit objectives for the three lines of enquiry were as follows:

- Determine whether selected departments can demonstrate that they are meeting needs for effectiveness evaluation and regularly identify and address areas for improvement.
- Determine whether selected departments can demonstrate that they have the capacity to meet key needs for effectiveness evaluation and regularly identify and address areas for improvement.
- Determine whether the Treasury Board of Canada Secretariat's government-wide oversight of the program evaluation function has regularly identified and addressed areas for improvement that ensure that departments have the capacity to meet needs for effectiveness evaluation.

### Scope and approach

**Focus on effectiveness evaluation.** Based on the *Auditor General Act*, section 7(2)(e), this audit examined program evaluation government-wide, in relation to the measurement of program effectiveness (meaning the assessment of the extent to which programs are relevant, produce impacts and outcomes, achieve their objectives, and are cost effective). Other types of evaluation examine program implementation and management.

**Not a compliance audit.** Because the 2001 Treasury Board evaluation policy was replaced in April 2009, the audit did not focus on compliance with policy.

**Evaluation quality.** We examined evaluation quality by determining whether departments had processes in place, including quality assurance, to ensure that their effectiveness evaluations are appropriate for their intended uses.

**Strategic review and the Expenditure Management System.** In view of the link between the Expenditure Management System and evaluation (that is, evaluation is seen as a key source of information for strategic review), the audit sought to determine whether evaluations met the need created by strategic review.

**Selection of entities.** The entities selected for examination in the audit were the Treasury Board of Canada Secretariat and the following six departments:

- Agriculture and Agri-Food Canada,
- Canadian Heritage,
- Citizenship and Immigration Canada,
- Environment Canada,
- Fisheries and Oceans Canada, and
- Human Resources and Skills Development Canada.

The selection of departments was based on factors such as materiality, range of program types, nature of the evaluation function, and management accountability framework (MAF) ratings and whether a strategic review had been carried out. Our audit also included descriptive information provided by other large departments (those participating in the annual MAF process) who attested to the accuracy of information they provided.

During our audit, we conducted interviews, reviewed files and documents, analyzed descriptive information provided and attested to by large departments, and met with focus groups who provided us with an informed stakeholder perspective.

#### **Period covered by the audit**

The audit period was between the 2004–05 and 2008–09 fiscal years. This period was chosen because enough time would have elapsed since the introduction of the 2001 policy to allow its effects to take hold. In addition, the 2004–05 fiscal year was when the Treasury Board of Canada Secretariat carried out an interim evaluation of the 2001 policy. It was also the year when the Secretariat engaged contractors to complete a series of diagnostic studies aimed at understanding the “state of play” of the function at that time. Focusing on the period between the 2005–06 and 2008–09 fiscal years allowed us to examine the impact of the Secretariat’s efforts to understand how well the 2001 policy was working, and to examine how the Secretariat identified problems between the 2002–03 and 2004–05 fiscal years and addressed these problems between the 2004–05 and 2008–09 fiscal years.

Audit work for this chapter was substantially completed on 31 May 2009.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that departments could demonstrate that program evaluation plans take appropriate account of needs for effectiveness evaluation.	<ul style="list-style-type: none"> <li>• <i>Auditor General Act</i>, section 7(2)(e)</li> <li>• <i>Financial Administration Act</i>, section 42(1)</li> <li>• Treasury Board Evaluation Policy (2001)</li> <li>• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, Evaluation Function in the Government of Canada (2004), Appendix 2, Evaluation Standards in the Government of Canada</li> <li>• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, A Guide to Developing a Risk-Based Departmental Evaluation Plan (2005), section 3.2</li> <li>• Treasury Board Policy on Transfer Payments (2008)</li> </ul>
We expected that departments could demonstrate that they have acted on program evaluation plans to meet key needs.	<ul style="list-style-type: none"> <li>• Treasury Board Evaluation Policy (2001)</li> <li>• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, A Guide to Developing a Risk-Based Departmental Evaluation Plan (2005), page 14</li> </ul>
We expected that departments could demonstrate that their effectiveness evaluations appropriately meet identified needs.	<ul style="list-style-type: none"> <li>• Treasury Board Evaluation Policy (2001)</li> <li>• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, Evaluation Function in the Government of Canada (2004), Appendix 2, Evaluation Standards in the Government of Canada</li> </ul>
We expected that departments could demonstrate that they regularly identify and act on required improvements in meeting needs for effectiveness evaluation.	<ul style="list-style-type: none"> <li>• Treasury Board Evaluation Policy (2001)</li> <li>• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, Evaluation Function in the Government of Canada (2004), Appendix 2, Evaluation Standards in the Government of Canada</li> </ul>
We expected that departments could demonstrate reasonable efforts to ensure sufficient qualified evaluation staff to meet key needs for effectiveness evaluation.	<ul style="list-style-type: none"> <li>• Treasury Board Evaluation Policy (2001)</li> <li>• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, Evaluation Function in the Government of Canada (2004), Appendix 2, Evaluation Standards in the Government of Canada</li> <li>• Treasury Board of Canada Secretariat, People Component of the Management Accountability Framework (PCMAF) (2005), page 1</li> <li>• Public Service Commission of Canada, Staffing Management Accountability Framework (SMAF) (2005), page 4</li> <li>• Government Response to the Fourth Report on the Standing Committee on Public Accounts: The Expenditure Management System at the Government Centre and the Expenditure Management System in Departments (2008), page 8</li> </ul>

Criteria	Sources
We expected departments could demonstrate that the amount and the time frame of funding for effectiveness evaluation meet key needs.	• Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, <i>A Guide to Developing a Risk-Based Departmental Evaluation Plan</i> (2005), pages 5 and 13
We expected that departments could demonstrate that evaluators have sufficient independence from program managers and that their objectivity is not hindered.	• Treasury Board Evaluation Policy (2001) • Treasury Board of Canada Secretariat, Centre of Excellence for Evaluation, <i>Evaluation Function in the Government of Canada</i> (2004), Appendix 2, <i>Evaluation Standards in the Government of Canada</i>
We expected that departments could demonstrate that they regularly identify and act on required improvements to capacity to meet needs for effectiveness evaluation.	• Treasury Board Evaluation Policy (2001) • Public Service Commission of Canada, <i>Staffing Management Accountability Framework (SMAF)</i> , page 5
We expected that the Treasury Board of Canada Secretariat has the resources required for government-wide oversight of the program evaluation function.	• <i>Financial Administration Act</i> , section 6(7)
We expected that the Treasury Board of Canada Secretariat could support the practice of government-wide evaluation by identifying needed improvements and determining and carrying out actions required of the Secretariat to help ensure that departments and agencies have the tools they need to achieve the desired results.	• Treasury Board Evaluation Policy (2001) • The Standing Committee on Public Accounts, <i>Report on the Expenditure Management System at the Government Centre and the Expenditure Management System in Departments</i> (2008), page 16

Management reviewed and accepted the suitability of the criteria used in the audit.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 1. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p><b>Meeting needs for effectiveness evaluation</b></p> <p><b>1.37</b> Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Environment Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada should develop and implement action plans to ensure that ongoing program performance information is collected to support effectiveness evaluation. (1.14–1.36)*</p>	<p><b>Agriculture and Agri-Food Canada's response.</b> Agreed. The Department agrees that the systematic collection of program performance data by managers is necessary to report on program performance and to support effectiveness evaluations. As required by the Treasury Board Policy on Transfer Payments, a performance measurement strategy for ongoing management of transfer payment programs, including performance measures and indicators and a data collection strategy, is developed for each new transfer payment program. The Department's evaluation function reviews program performance measurement strategies as they are developed to ensure that outcomes are defined, measurable, and attributable and that the strategies, if implemented, are sufficient to support future evaluation work. Beginning in the 2009–10 fiscal year, the Department will conduct annual state of performance measurement reviews. The first such review will assess performance measurement practices at the Department and the adequacy of data collected for programs soon to be evaluated. An action plan to address its recommendations will be developed and its implementation monitored with a view to strengthening the Department's practices in this area.</p> <p><b>Canadian Heritage's response.</b> Agreed. The Department is executing its Action Plan for Implementation of the Management, Resources and Results Structures (MRRS) Policy to ensure that program staff are able to fulfill their responsibility for developing and maintaining performance measurement strategies. Action plan measures include</p> <ul style="list-style-type: none"> <li>• the provision of information sessions and workshops,</li> <li>• the establishment of indicators and corresponding targets,</li> <li>• the development of robust methodologies to demonstrate outcomes,</li> </ul>

## Recommendation

## Response

- the establishment of a centre of expertise on performance measurement within the Department,
- the design and implementation of adequate tools and guidelines,
- the establishment of relevant information technology and systems, and
- the regular analysis and reporting of collected data.

This action plan is expected to be completed by end of the 2011–12 fiscal year.

The Department's Office of the Chief Audit and Evaluation Executive is continually providing advice and support to Department managers in their efforts to implement this action plan. In line with the Transfer Payment Policy, this office is also providing timely advice and support on program design and performance measurement strategies through the review of official approval documents for the creation and renewal of new or existing programs. Finally, as required under the new Evaluation Policy, the office will be submitting, in the 2010–11 fiscal year, its first annual report to the departmental evaluation committee on the state of performance measurement in the Department.

**Citizenship and Immigration Canada's response.** Agreed. The Department recognizes the value of ongoing performance information for evaluation and will continue to support related departmental activities. The Department will develop an action plan that includes the renewal of the comprehensive departmental performance measurement framework and program activity architecture, and furthers the integration of the Framework into the business planning process.

**Environment Canada's response.** Agreed. The Department accepts this recommendation, which echoes the intent of the 2009 Evaluation Policy related to performance information. As such, actions are already under way within Environment Canada to implement this recommendation. These include ongoing monitoring of the implementation of management responses to previous evaluations that have identified concerns with performance information, and the development and implementation of a strategy to inform all department managers of the Evaluation Policy requirements pertaining to performance measurement.

Recommendation	Response
	<p>In addition, the Department's evaluation plan will be expanded to include a monitoring component to verify, within available resources, the status of performance data collected in the department and whether sufficient performance information will be available to support upcoming evaluations. This monitoring component will be included in the 2010–15 Evaluation Plan and will be updated annually thereafter.</p>
	<p>Further, for the 2010–11 fiscal year, the Department's performance measurement framework has been linked to the Department's program activity architecture, in that performance measures have been identified for all programs.</p>
	<p><b>Fisheries and Oceans Canada's response.</b> Agreed. The Department's performance measurement framework links its core indicators to the departmental program activity architecture (PAA), thus identifying performance measures for all program activities and sub-activities. Each fiscal year, the Department conducts an analysis of the state of performance measurement in the Department and provides an annual report to the Departmental Evaluation Committee. In addition, the Department will develop and implement an action plan to ensure that ongoing program performance information is collected to support effectiveness evaluation by the end of August 2010.</p>
	<p><b>Human Resources and Skills Development Canada's response.</b> Agreed. The Department accepts this recommendation that echoes the intent of various Treasury Board of Canada Secretariat policies, including the 2009 Evaluation Policy. As such, the Department already gathers and monitors ongoing performance information to support effectiveness evaluation, including</p>
	<ul style="list-style-type: none"> <li>• monitoring implementation of management responses to previous evaluations that have identified data issues for current programs;</li> <li>• undertaking early evaluative work in advance of the formal initiation of effectiveness evaluations as part of the evaluation planning process, to review the state of performance data and logic models; and</li> <li>• monitoring the implementation of new programs (for example, Economic Action Plan initiatives) to ensure the necessary administrative and performance data are available to support future evaluation activities.</li> </ul>

## Recommendation

## Response

**1.43** Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Environment Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada should consider the merits of including external experts on their departmental evaluation committees. The Treasury Board of Canada Secretariat should provide guidance to departments in this regard. (1.38–1.42)

The Department is also undertaking a comprehensive review, refinement, and validation of its Performance Measurement Framework (PMF) to make it more robust and comprehensive, to support ongoing planning, monitoring, and managing for results and the Evaluation Directorate has been actively involved in this work. The progress made on the departmental PMF will support both performance monitoring as well as evaluation of relevance and effectiveness.

**Agriculture and Agri-Food Canada's response.** Agreed. The Department has recently introduced a number of practices to ensure production of strong evaluation reports. They include seeking input from external experts on evaluations in progress. The Department will also consider including external members on its Departmental Evaluation Committee, in the context of guidance provided by Treasury Board of Canada Secretariat.

**Canadian Heritage's response.** Agreed. At the Department, oversight of the evaluation function is provided by the Strategic Policy, Planning and Evaluation Committee (SPPEC), chaired by the Deputy Head. This structure provides opportunities for enhanced integration between the policy, planning, and evaluation functions of the department. As well, the Department already brings key evaluation reports when necessary to its department audit committee for review and discussion. The Department will collaborate with the Treasury Board of Canada Secretariat's Centre of Excellence in Evaluation to assess the value added of integrating the advice of external evaluation experts to inform the work of departmental evaluation committees.

**Citizenship and Immigration Canada's response.** Agreed. The Department will assess the benefits of including an external evaluation expert on the departmental evaluation committee.

**Environment Canada's response.** Agreed. The Department accepts the recommendation and will await guidance from the Treasury Board of Canada Secretariat on the inclusion of external members on departmental evaluation committees.

**Fisheries and Oceans Canada's response.** Agreed. The Department will consider the merit of including external members on its department evaluation committee, in the context of guidance provided by the Treasury Board of Canada Secretariat.

## Recommendation

## Response

**1.48** Agriculture and Agri-food Canada, Canadian Heritage, Citizenship and Immigration Canada, Fisheries and Oceans Canada, and Human Resources and Skills Development Canada should implement systematic processes to determine whether their effectiveness evaluations are meeting government-wide requirements and internal corporate needs, and act on areas identified for improvement. The Treasury Board of Canada Secretariat should monitor and provide any additional support it considers necessary for the implementation of these processes. (1.44–1.47)

**Human Resources and Skills Development Canada's response.** Agreed. The Department has, in the past, included members from outside the Department on its departmental evaluation committee. The Department will reconsider the formal inclusion of external experts on the current Departmental Evaluation Committee and will look to the Treasury Board of Canada Secretariat for guidance on this part of the Evaluation Policy.

**The Treasury Board of Canada Secretariat's response.** Agreed. The Secretariat agrees that it should provide guidance to departments on the possible merits of including external experts on their departmental evaluation committees. These actions will be completed by 31 March 2010.

**Agriculture and Agri-Food Canada's response.** Agreed. The Department accepts this recommendation and notes that in the past year, it has introduced a number of systematic processes, which together will ensure effectiveness evaluations address senior management information needs in a timely manner. They include annual consultations on evaluation priorities, requests for feedback on completed evaluations, and annual Head of Evaluation reports on the performance of the evaluation function.

**Canadian Heritage's response.** Agreed. The Department recognizes the need to establish systematic processes to assess whether effectiveness evaluations are addressing needs. The Evaluation Services Directorate is already developing a performance measurement framework and management strategy to identify clear performance expectations and standards for the Department's evaluation function. A systematic process to collect, analyze, and report on performance data and client satisfaction will be implemented in order to identify areas of improvements. Based on data collected during the first year of implementation (the 2010–11 fiscal year), periodic reporting to the Departmental Evaluation Committee should begin by the 2011–12 fiscal year. This performance information will complement data already reported in the context of the annual management accountability framework assessments conducted by the Treasury Board of Canada Secretariat.

**Recommendation****Response**

**Citizenship and Immigration Canada's response.** Agreed. The Department will assess the need for systematic processes in addition to the Management Accountability Framework assessment process, the oversight of the Departmental Evaluation Committee, requirements for annual reporting, and the Department's evaluation process, which includes several steps of consultation and feedback from the Department's branches.

**Fisheries and Oceans Canada's response.** Agreed. The recommendation echoes the intent of the 2009 Policy on Evaluation. As such, actions are already under way within the Department to implement a systematic process to determine whether effectiveness evaluations are meeting internal corporate needs and government-wide needs (i.e., a strategic review) and to act on areas identified for improvement. Further work in this area will be completed in the context of guidance provided by the Treasury Board of Canada Secretariat.

**Human Resources and Skills Development Canada's response.** Agreed. The Department currently employs a variety of systematic processes to ensure the quality and relevance of its evaluations for both internal and government-wide needs. External peer reviewers and evaluation advisory committees are a mandatory element of the evaluation work to ensure that evaluations are meeting information needs. Further work in systematically determining whether evaluations are meeting government and senior management needs will be developed, building upon the current annual Management Accountability Framework assessment process led by the Treasury Board of Canada Secretariat. Areas for improvement will be identified and reported to the Departmental Evaluation Committee.

**The Treasury Board of Canada Secretariat's response.** Agreed. The Secretariat agrees that it should assist departments as necessary in their implementation of processes to determine whether evaluations are meeting government-wide needs and should provide support to departments that it considers necessary.

The new Treasury Board Policy on Evaluation, which came into effect on 1 April 2009, includes specific requirements to enhance evaluation coverage and examination of program effectiveness as well as performance information to support evaluations. The policy calls on the Secretary of the Treasury

## Recommendation

## Response

Board to provide functional leadership for evaluation across government, including monitoring and reporting annually to the Treasury Board on the health of the evaluation function.

The Secretariat currently carries out a large portion of this work through the annual Management Accountability Framework assessment process, which the Office of the Auditor General acknowledges was not covered by the current audit. The Secretariat communicates recommended areas for improvement in evaluation through the assessment reports that it sends to the deputy heads of departments and agencies, who are responsible for the evaluation function in their respective organizations.

## Oversight and support

**1.82** In developing tools, guidance, and support for departments, the Treasury Board of Canada Secretariat should regularly identify gaps that it needs to act on, develop plans to address these gaps, and act on these plans. (1.74–1.81)

## The Treasury Board of Canada Secretariat's response.

Agreed. The Secretariat is presently developing guidance for departments and agencies to support the implementation of the new Treasury Board Policy on Evaluation (April 2009). Guidance in a number of key areas, including departmental evaluation planning and performance measurement strategies, is expected to be available to departments and agencies by 31 March 2010. Further guidance will be issued over the course of the 2010–11 fiscal year.

During the past two years, the Treasury Board of Canada Secretariat has issued guidance on the development of performance measurement frameworks required under the 2005 Policy on Management Resources and Results Structures, which was not covered by the current audit. In addition, through its annual Management Accountability Framework assessments, the Secretariat provides advice and support to departments on the quality and use of evaluation as well as on the quality of performance measurement frameworks associated with departmental Management, Resources and Results Structures.

The Secretariat continually consults with departments and agencies on their needs and monitors policy implementation to identify weaknesses within the government-wide evaluation function. Where the Secretariat determines a need to develop further tools, guidance, or other supports, it includes these activities in its business plans.

**Recommendation****Response**

**1.88** The Treasury Board of Canada Secretariat should ensure that it allocates sufficient resources to tasks that require evaluation expertise. (1.83–1.87)

**The Treasury Board of Canada Secretariat's response.**

Agreed. In renewing the Policy on Evaluation, the Government has strengthened its commitment to evaluating the value for money of federal programs and reaffirmed the Secretariat's role of leading the evaluation function. In performing its functional leadership role established in the new policy, the Treasury Board of Canada Secretariat will ensure that the resources necessary for performing this role are considered and sufficient resources are allocated at the Secretariat to tasks that require evaluation expertise.

**1.93** The Treasury Board of Canada Secretariat should help departments prepare to implement the new coverage requirements. During the transition period, the Secretariat should provide advice and guidance for effectiveness evaluation, focusing on programs where such evaluation can be put to best use. (1.89–1.92)

**The Treasury Board of Canada Secretariat's response.**

Agreed. The Secretariat is planning to issue written guidance for making risk-based choices for evaluation coverage to support departments during the transition period. This guidance is expected by 31 March 2010.

Throughout the transition period, the Secretariat will also help departments prepare to implement the new coverage requirements that come into effect after 31 March 2013. The Secretariat will provide leadership in the development and sharing of effective evaluation practices across departments, as well as support capacity-building initiatives in the evaluation function government-wide.

# Report of the Auditor General of Canada to the House of Commons—Fall 2009

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FALL

Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**Chapter 2**  
Selecting Foreign Workers Under  
the Immigration Program



Office of the Auditor General of Canada



# 2009



**FALL**

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Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

# 2

Selecting Foreign Workers Under  
the Immigration Program



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# Selecting Foreign Workers Under the Immigration Program

## Main Points

### What we examined

In Canada, the federal government and the provinces and territories share jurisdiction over immigration. Citizenship and Immigration Canada (CIC) is generally responsible for the selection of immigrants and other foreign nationals and for ensuring that they are admissible—that is, that they do not present any risk to the health and safety of Canadians. The Department has also signed agreements with most provinces and territories allowing them to play an active role in selecting immigrants to meet the specific needs of their labour markets.

In 2008, Canada admitted about 250,000 people as permanent residents, including about 150,000 individuals and their immediate family members selected on the basis of attributes that would enable them to succeed in a dynamic labour market, such as education, professional experience, and official language ability. In addition, Canada allowed almost 370,000 temporary foreign workers in 2008 to fill a short-term need for labour.

We examined how CIC plans for and manages programs designed to facilitate the entry of permanent and temporary workers into Canada and the recognition of foreign credentials in Canada. In addition, we looked at the role of Human Resources and Skills Development Canada (HRSDC) in supporting the planning and delivery of these programs, including the issuance of labour market opinions by its Service Canada offices. The audit covered the period from June 2002, when the *Immigration and Refugee Protection Act* came into effect, to 30 June 2009.

Our audit did not cover how CIC assesses whether applicants are admissible to Canada or how the provinces and territories nominate candidates for selection. Nor did we examine the Canada Border Services Agency's processing of work permit applications at points of entry into Canada.

### Why it's important

Immigration has played an important role in the economic, social, and cultural development of Canada throughout our history. Its role is just as important today, given our aging population and labour force.

Canada has an ongoing need for permanent workers with various skills and must compete with other countries to attract them. In addition, Canada has a need for various types of temporary workers to address short-term needs of the labour market, which vary from year to year and from region to region of the country.

It is critical that the government's programs to facilitate the entry of permanent and temporary workers be designed and delivered in a way to ensure that the right people are available at the right time to meet the needs of the Canadian labour market. The choices that are made now will affect the kind of society Canada has in the future.

### What we found

- Although CIC followed a sound decision-making process in 2008 to design the Canadian Experience Class (a category of skilled foreign workers and students with Canadian work experience), the Department has made other key decisions without properly assessing their costs and benefits, risks, and potential impacts on other programs and delivery mechanisms. Program changes in recent years have resulted in a significant shift in the types of workers being admitted permanently to Canada under the immigration program's economic component. We saw little evidence that this shift is part of any well-defined strategy to best meet the needs of the Canadian labour market.
- The inventory of applications in the Federal Skilled Worker category has almost doubled since our 2000 audit and, in December 2008, represented more than 620,000 people waiting an average of 63 months for a decision on whether they would be admitted. Measures taken by CIC in 2008 to limit the number of new applications—for example, processing only those that meet new, more narrowly defined criteria—were not based on sufficient analysis of their potential effects. While it is too early to assess their full impact, trends in the number of applications received since the beginning of 2009 indicate that they might not have the desired effect, and CIC could be unable to process new applications within the 6 to 12 months it has forecast. Furthermore, CIC does not know and has not defined how much time it should take to clear the inventory of applications on hand when the measures were introduced.
- CIC and HRSDC have not clearly defined their respective roles and responsibilities in assessing the genuineness of job offers and how that assessment is to be carried out. As a result, work permits could be issued to temporary foreign workers for employers or jobs that do not exist. In addition, there is no systematic follow-up by either

department to verify that in their previous and current employment of temporary foreign workers, employers have complied with the terms and conditions (such as wages and accommodations) under which the work permits were issued. This creates risks to program integrity and could leave many foreign workers in a vulnerable position, particularly those who are physically or linguistically isolated from the general community or are unaware of their rights. Furthermore, weaknesses in the practices for issuing labour market opinions raise questions about the quality and consistency of decisions being made by HRSDC officers.

- CIC has successfully introduced a number of initiatives and tools to address some of the inefficiencies we reported in 2000 in its processing of applications in missions overseas. However, efficiency gains will be seriously limited until an information technology system that has been under development for almost 10 years is implemented in missions abroad and CIC makes effective use of available technologies. In the meantime, employees in missions abroad are still buried in paperwork and spending a great deal of their time on clerical tasks. In addition, while the Department has developed a quality assurance framework that is available to all missions, immigration program managers are not required to use it or to report on quality assurance. Therefore, CIC still has little assurance that overall, decisions by visa officers are fair and consistent.

**The entities have responded.** The entities agree with all of the recommendations. Their responses follow each recommendation throughout the chapter.



## Introduction

### Overview of the Canadian immigration program

**2.1** Immigration plays an important role in the economic, social, and cultural development of Canada. According to Statistics Canada, immigration accounted for two thirds of Canada's population growth in 2006. At the same time, the existing population is aging and the working population, a diminishing proportion of the total, could become too small to respond to the economic and labour market needs of the country. The federal government has determined that immigration is part of the solution, both now and in the future. However, in attracting economic immigrants, Canada must compete with many industrialized countries facing similar circumstances.

**2.2** Meeting these challenges requires legislation, regulations, and programs that can attract foreign workers to fill Canada's needs without compromising the health and safety of its citizens.

**2.3** **Mandate and authority.** The *Immigration and Refugee Protection Act* (IRPA) that now governs immigration in Canada came into effect on 28 June 2002, replacing the *Immigration Act* of 1976. Among other objectives, the IRPA is intended to

- support the development of a strong and prosperous Canadian economy, in which the benefits of immigration are shared across all regions of Canada;
- support, by means of consistent standards and prompt processing, the attainment of immigration goals established by the Government of Canada in consultation with the provinces and territories;
- facilitate the entry of visitors, students, and temporary workers for purposes such as trade, commerce, tourism, international understanding and cultural, educational, and scientific activities; and
- work in cooperation with the provinces and territories to secure better recognition of the foreign credentials of permanent residents and their more rapid integration into society.

**2.4** Citizenship and Immigration Canada (CIC) is a key player in the application of the IRPA. Under specific immigration programs, the Department

- develops Canada's policy on selection of applicants for permanent and temporary residency;

- sets the conditions under which they may enter and remain in Canada,
- screens applicants to determine whether they present any risk to Canadians,
- processes applications from foreign nationals for either permanent or temporary residency, and
- assists with settling them in Canada and integrating them into society.

**2.5** Human Resources and Skills Development Canada (HRSDC) is responsible for the design, management, and delivery of those elements of temporary foreign worker programming that fall under its Minister's responsibility, including the issuance of labour market opinions to employers and to CIC. It delivers services through its Service Canada offices in all regions of Canada. HRSDC is also involved in the federal efforts to facilitate the recognition of foreign credentials.

**2.6** A number of other federal entities, including the Canada Border Services Agency (CBSA), are also involved in the delivery of the immigration program.

**2.7** Under the *Constitution Act*, immigration falls under the leadership of the federal government but responsibility is shared with the provinces and territories. Successful management of the immigration program therefore requires effective collaboration between the federal and the provincial and territorial governments. Under the IRPA, the Minister of Citizenship, Immigration and Multiculturalism has the authority to sign immigration agreements with the provinces and territories.

**2.8** The Canada-Quebec Accord, signed in 1991, grants Quebec the authority to set its own target levels for immigration each year and to select the immigrants who will go to the province. CIC also has agreements in place with most other provinces and territories for a provincial nominee program; these agreements give the province or territory the authority to pre-select and nominate individuals who fill a specific need in its labour market. However, CIC remains responsible for the final selection decision.

**2.9** In the 2008–09 fiscal year, CIC had an annual budget of \$1.32 billion, of which \$434.7 million was for operating expenditures; funding for grants and contributions accounted for the balance. The Department had about 3,600 employees (full-time equivalents), including about 260 posted overseas. Immigration services abroad are provided through 89 offices in Canadian **missions** where, in addition to

**Mission**—An office of the Government of Canada outside Canada. This includes an embassy or high commission, consulate general, and consulate.

Canadian employees, more than 1,260 locally engaged staff work. In 2008, about 247,000 immigration visas, as well as 1,261,000 temporary resident visas, and work and study permits were issued.

**2.10 Planning of immigration levels.** The *Immigration and Refugee Protection Act* (IRPA) requires the Minister of Citizenship, Immigration and Multiculturalism to table a report on immigration in Parliament before 1 November each year. This annual report gives the number of newcomers who were admitted to Canada during the previous year and announces Canada's immigration plan and target levels for the following calendar year. These levels are set for permanent residents only. There is no limit established for temporary residents.

**2.11** The Department plans immigration levels in consultation with the provinces and territories, certain federal departments, and national and local organizations with a particular interest in immigration. The Department also considers factors such as Canada's capacity to absorb new immigrants, trends in international migration, and its own capacity to process immigrants' applications. Based on its analysis of the information it has gathered, the Department recommends to the Minister the immigration levels to be set. The annual immigration levels are then approved by the government before they are announced in Parliament.

**2.12** Annual target levels have remained essentially the same in recent years—from a minimum of 220,000 in 2004 to a minimum of 240,000 in 2009, broken down into various classes (Exhibit 2.1). The targeted number of immigrants to be admitted includes both the principal applicants and their dependants.

**2.13 Selection of foreign workers.** Foreign workers can come to Canada under four categories of the Economic class to become permanent residents (Exhibit 2.2). As permanent residents, they are authorized to live and work in Canada as long as they retain their status.

**2.14** Foreign workers can also come to Canada to work on a temporary basis. Temporary foreign workers have access to four streams (Exhibit 2.3):

- Skilled workers,
- Occupations requiring lower levels of formal training (pilot project),
- Live-in caregivers, and
- Seasonal agricultural workers.

These foreign workers must obtain a work permit, unless exempted under the IRPA. Usually, a work permit is valid only for a specified job and length of time. In 2008, almost 370,000 work permits were issued.

**Exhibit 2.1 Annual target immigration levels have changed little since 2004 (thousands)**

Class	2004	2005	2006	2007	2008	2009
Economic	132.0–148.0	132.5–148.0	126.0–143.0	141.0–158.0	139.0–154.0	140.3–156.6
Family	52.5–55.5	51.5–56.8	61.0–65.0	67.0–69.0	68.0–71.0	68.0–71.0
Protected persons	29.4–32.8	30.8–33.8	32.8–40.3	25.9–30.8	26.0–31.8	23.6–27.2
Others	6.1–8.7	5.2–6.4	5.2–6.7	6.1–7.2	7.0–8.2	8.1–10.2
<b>Total</b>	<b>220.0–245.0</b>	<b>220.0–245.0</b>	<b>225.0–255.0</b>	<b>240.0–265.0</b>	<b>240.0–265.0</b>	<b>240.0–265.0</b>

**Economic class**—Persons selected as permanent residents for their skills and ability to contribute to Canada's economy.

**Family class**—Close relatives of a Canadian citizen or permanent resident who may be sponsored to immigrate to Canada. Relatives are primarily spouses, partners, dependent children, parents and grandparents, but other family members may be eligible in certain circumstances.

**Protected persons**—Persons abroad or in Canada who have been determined to be Convention refugees (United Nations Convention Relating to the Status of Refugees and Protocol to the Convention) or in need of protection as defined in the *Immigration and Refugee Protection Act*.

**Others**—Persons who, in exceptional circumstances, are granted permanent status even though they would ordinarily not qualify. For example, cases where there are strong humanitarian and compassionate considerations.

Source: Citizenship and Immigration Canada reports on plans and priorities and annual reports to Parliament on immigration.

**Exhibit 2.2 Categories of the Economic class under which foreign workers may apply for permanent residency\***

Category	Description
Federal Skilled Worker (FSW)	The FSW category selects immigrants for their skills. This category stresses education, English or French language abilities, and work experience in some occupations included in categories O (managerial), A (professional), and B (technical and skilled trades) of the National Occupational Classification (NOC) system. Applications are assessed against a point system.**
Canadian Experience Class (CEC)	The CEC selects skilled temporary workers with Canadian work experience and international students with Canadian degrees and Canadian work experience; they may apply for permanent residency without leaving the country.
Quebec Skilled Worker (QSW)	The <i>Canada-Quebec Accord</i> grants Quebec the authority to set annual immigration targets and the responsibility for selecting skilled worker immigrants. (Our audit did not include this category.)
Provincial Nominee Program (PNP)	The PNP allows provincial and territorial governments to pre-select and nominate applicants based on their own selection criteria. However, Citizenship and Immigration Canada is responsible for the final selection decision.

\* The Economic class also includes the business categories of investors, entrepreneurs, and self-employed applicants, none of which were included in our audit. Live-in caregivers may also become permanent residents but they are first admitted to Canada as temporary foreign workers.

\*\*For information on the point system, visit Citizenship and Immigration Canada's website at [www.cic.gc.ca](http://www.cic.gc.ca).

Source: Citizenship and Immigration Canada annual reports to Parliament on immigration, and *Immigration and Refugee Protection Regulations*

**2.15 Operating environment.** Our last audit of the immigration program's economic component was published in our April 2000 Report. Since then, there have been major changes in the delivery of immigration programs. In particular, the IRPA was enacted in 2002; the Canada Border Services Agency (CBSA) was created in 2003 and took over all enforcement and control activities from CIC. Both of these events generated implementation challenges.

**2.16** In addition, Canada's economic growth in recent years substantially increased the demand for temporary foreign workers and the number of temporary foreign worker applications.

**2.17** In 2006, the government recognized the need to more closely align immigration policies with labour market needs while addressing local shortages, through greater use of the Provincial Nominee Program and by encouraging skilled temporary foreign workers with Canadian work experience to apply for permanent residency. Finally, in 2008 the government committed to \$124 million over a five-year period to modernize the immigration system and make it more competitive and responsive.

**2.18** CIC's performance, among others, is measured by its success in achieving the annual target immigration levels. As shown in Exhibit 2.1, these target levels have increased only slightly since 2004.

---

**Exhibit 2.3 Temporary foreign worker streams**

Streams	Description
Skilled workers	Employers may wish to hire foreign workers to work temporarily in occupations or sectors of the economy that require workers with a high level of formal education or training included in categories O (managerial), A (professional), and B (technical and skilled trades) of the National Occupational Classification (NOC) system. These usually require a college or university degree.
Occupations requiring lower levels of formal training (pilot project)	This stream allows employers to hire temporary workers for lower-skilled occupations included in categories C and D of the NOC system, which typically require at most a high-school diploma or a maximum two years of job-specific training. This is a pilot program that was introduced in July 2002.
Live-in caregivers	Live-in caregivers are admitted to Canada on a temporary basis and may apply for permanent residency from within Canada after being employed as a caregiver for two out of three years.
Seasonal agricultural workers	The seasonal agricultural worker stream allows for the organized entry of temporary workers from Mexico and a number of Caribbean countries into Canada to meet the seasonal needs of agricultural producers when Canadian workers are not readily available.

Source: Citizenship and Immigration Canada annual reports to Parliament on immigration, the Temporary Foreign Worker Program Integrated Results-Based Management and Accountability Framework, and the Risk-Based Audit Framework

CIC's resource base in missions abroad, which handle most applications for permanent and temporary residency, has also remained relatively constant during a period when temporary foreign worker applications increased significantly. Nonetheless, CIC has been able to achieve the annual immigration target levels with the sole exception of 2007, when 236,758 immigrants were admitted, slightly below the 240,000 minimum target.

### Focus of the audit

**2.19** We examined how CIC and HRSDC plan for and manage programs designed to facilitate the entry of permanent and temporary workers into Canada. We also examined how applications are processed and what is being done to facilitate the recognition of foreign credentials in Canada. We did not examine how CIC determines applicants' admissibility in terms of health, safety, and security. Nor did we audit the Canada Border Services Agency's processing of work permit applications at Canadian points of entry or how the provinces and territories nominate candidates for selection.

**2.20** We carried out our audit work at CIC offices in Canada and in eight missions overseas, and in HRSDC offices in Canada.

**2.21** More details on the audit objectives, scope, approach, and criteria are in *About the Audit* at the end of this chapter.

## Observations and Recommendations

### Strategic planning and programming

**2.22** Canada has an ongoing need for permanent and temporary workers with various skills and must compete with other countries to attract them. It is therefore critical that the government's programs to facilitate the entry of these workers to Canada be designed in such a way that the right people are available at the right time to meet the needs of the Canadian labour market.

**2.23** As outlined further in this chapter, a number of important changes have been made to existing programs, and new programs have been introduced in recent years. We examined whether these modifications were based on a clear vision of the type and number of foreign workers to be admitted to Canada under each program in order to meet the needs of the Canadian labour market.

**What each program should contribute to meeting Canadian labour market needs has not been defined**

**2.24** Annual target levels for the Economic class as a whole have changed little in the last six years, ranging from a minimum of 132,000 in 2004 to 140,300 in 2009. However, there has been a significant shift in the number of immigrants Canada will admit under each category within that class (Exhibit 2.4).

**2.25** For example, between 2004 and 2009, increased economic activity in a number of provinces and lengthy delays in processing Federal Skilled Worker applications resulted in an increase of almost 471 percent in the minimum target levels for the Provincial Nominee Program (PNP) category. During the same period, minimum target levels for the Federal Skilled Worker (FSW) category dropped 31 percent.

**2.26** We also noted that the immigration targets for the Economic class are influenced more and more by the movement of some temporary workers and international students who, after two years in Canada, have access to permanent residency through the Live-in Caregiver category and the recently created Canadian Experience Class category. There are no limits on the number of temporary foreign workers and international students being admitted each year. Consequently, target levels for the Live-in Caregiver and the Canadian Experience Class categories need to be adjusted each year to take into account the expected number of permanent residency applications to

**Exhibit 2.4 A significant shift has occurred in recent years in the number of immigrants that Canada planned to accept under each category of the Economic class**

Category	Planned target levels, including dependants (thousands)					
	2004	2005	2006	2007	2008	2009
Federal Skilled Worker	98.2–112.7	86.0–97.5	78.5–89.0	90.0–100.5	67.0–70.0	68.2–72.0
Quebec Skilled Worker	21.3–22.8	26.5–27.0	26.5–27.0	26.0–27.5	25.0–28.0	28.1–29.1
Federal/Quebec Business	6.0–6.0	9.5–10.5	9.0–11.0	9.0–11.0	11.0–13.0	11.0–12.0
Provincial Nominee Program	3.5–3.5	8.0–10.0	9.0–11.0	13.0–14.0	20.0–22.0	20.0–26.0
Live-in Caregiver	3.0–3.0	2.5–3.0	3.0–5.0	3.0–5.0	6.0–9.0	8.0–10.0
Canadian Experience Class*	N/A	N/A	N/A	N/A	10.0–12.0	5.0–7.5
<b>Total Economic class</b>	<b>132.0–148.0</b>	<b>132.5–148.0</b>	<b>126.0–143.0</b>	<b>141.0–158.0</b>	<b>139.0–154.0</b>	<b>140.3–156.6</b>

\*New category introduced in 2008

Source: Citizenship and Immigration Canada's annual reports to Parliament on immigration and reports on plans and priorities

be received from these temporary residents. For example, the significant increase in the number of work permits issued for live-in caregivers in recent years has made it necessary to almost triple the minimum target level for this category since 2004.

**2.27** Citizenship and Immigration Canada (CIC) has made a number of projections regarding the target levels that could be required in future years for each category of the Economic class, if no changes are made to current programs or to the target for the Economic class as a whole. These projections indicate a significant change in the types of foreign workers that could be admitted to Canada in the next three years (Exhibit 2.5). For example, the Provincial Nominee Program category could soon become the largest source of economic immigrants in Canada, while the target level for the Federal Skilled Worker category could be as low as 18,000 in 2012, down from a minimum target level of 68,200 in 2009.

**2.28** Such change could have a significant impact on the ability of the immigration program to meet Canada's labour needs. Although the *Immigration and Refugee Protection Act* (IRPA) requires that immigration levels be set on an annual basis, in our view, it would be important for CIC to have a clear vision of how many immigrants

**Exhibit 2.5 CIC projections indicate a significant change in the immigration target levels of each category within the Economic class**

Category	Immigration target levels (thousands)		
	2009 (minimum of the range)	2012 (projected)	Average Variation +/- %
Federal Skilled Worker	68.2	18.0	-73.6%
Quebec Skilled Worker	28.1	28.0	-0.4%
Provincial Nominee Program	20.0	40.0	100.0%
Federal/Quebec Business	11.0	11.0	0.0%
Live-in Caregiver	8.0	10.0	25.0%
Canadian Experience Class	5.0	26.3	426.0%
<b>Total</b>	<b>140.3</b>	<b>133.3</b>	<b>-5.0%</b>

Source: Citizenship and Immigration Canada's (CIC) 2008 Annual Report to Parliament on Immigration and the Office of the Auditor General's analysis on projections

should be selected under each category over a multi-year planning horizon, for example three years. The Department has yet to determine this.

**2.29** A longer-term vision to the setting of target levels would bring many benefits. For example, any program changes required to influence the mix among various categories could be made on a more timely basis. We also noted that some provinces are planning their immigration levels on a multi-year basis. Not doing so at the federal level could hinder CIC's ability to meet provincial/territorial expectations regarding the number of provincial nominees that could be admitted to Canada. Furthermore, communicating information on planned target levels on a multi-year basis could generate informed discussions among parliamentarians and various stakeholders on the overall direction of the immigration program.

**2.30** In its 2004 Annual Report to Parliament on Immigration, CIC committed to developing a national immigration framework in order to improve coordination with the provinces and territories and other stakeholders and ensure a flexible immigration program that meets Canada's objectives. The Department reiterated in its 2005–06 Report on Plans and Priorities that it would "work with partners to build upon the foundation created in recent years and, beginning in 2005–06 . . . develop a new immigration framework for the future."

**2.31** The Department's intent for the national framework it proposed was to provide a strategic roadmap for the future of the immigration program. This roadmap would facilitate the assessment of the potential impacts of proposed changes in immigration legislation, policies, and programs. In addition, it would enable the immigration program to respond more effectively to future challenges and address the challenges of the current delivery system, including rising inventories and delays in processing applications.

**2.32** Although we found that CIC has put in place an elaborate structure to coordinate immigration with the provinces and territories, including bilateral and provincial nominee agreements and regular federal-provincial/territorial meetings, it has not yet developed the strategic roadmap it was contemplating.

**2.33** In our view, such a strategic roadmap for the future of the immigration program would help to set a clear vision of what each program is expected to contribute toward meeting the objectives for

the Economic class and to ensure that CIC's program mix is optimal and closely aligned with that vision.

**2.34 Recommendation.** To strengthen its strategic planning, Citizenship and Immigration Canada should

- develop, in consultation with provinces and territories, a strategic roadmap for the future of the immigration program including a clear vision of what each category is expected to contribute, on a multi-year basis, toward achieving the objectives of the Economic class; and
- take the necessary steps to ensure that its programming is optimal and closely aligned with that vision.

**The Department's response.** Agreed. Work is already underway that will contribute to the vision and future of the immigration program. A notable example is the Department's work on the broader modernization of the immigration program, including measures that have policy, operational, and service improvement and technological components. In addition, the evaluation of the Federal Skilled Worker program and work on regulatory changes to the Temporary Foreign Worker Program to address concerns around program integrity are two more current areas of activity that support the modernization of the immigration system. Taken together, this work will lead to the development of an immigration roadmap, which will be developed in consultation with our provincial and territorial partners over the next two years.

In terms of the balance between categories in the Economic class, Citizenship and Immigration Canada launched a process in November 2008 with provinces and territories to develop a common approach for understanding how various programs under the Economic class, such as Federal Skilled Worker and Provincial Nominee contribute to meeting the economic objectives for immigration, such as responding to labour-market needs. Part of this effort involves achieving an appropriate balance among programs.

#### **Evaluations of the programs we audited are dated or have not been carried out**

**2.35** We expected that programming decisions would be supported by timely and accurate information on the performance of existing programs. In Chapter 1 of this Report, Evaluating the Effectiveness of Programs, we note, "The government views evaluation as the primary source of neutral and systematic information on the ongoing relevance and performance of policies and programs."

**2.36** We found that evaluations of the programs we audited are either dated or have not been carried out. For example, CIC last evaluated the Federal Skilled Worker program in 1998, despite the significant changes made to this program following the introduction of the IRPA in 2002. Furthermore, CIC has never evaluated the Provincial Nominee and the Live-in Caregiver programs. The Department's draft evaluation plan provides for an evaluation of the Federal Skilled Worker program in the 2009–10 fiscal year as well as evaluations of the Provincial Nominee Program and the Canadian Experience Class in the 2010–11 fiscal year. CIC informed us that an assessment of the Live-in Caregiver program will be included as part of a joint CIC/HRSDC evaluation of the Temporary Foreign Worker Program (TFWP). CIC also informed us that regulatory and policy obligations to evaluate grant and contribution programs on a priority basis delayed the evaluation of its other programs including those covered by our audit.

**2.37** We also found a lack of timely program evaluation for the TFWP. For example, in 2002, Human Resources and Skills Development Canada (HRSDC) committed to the government to develop an evaluation framework for this program. In 2007, CIC and HRSDC further committed to conduct a formative evaluation in the 2009–10 fiscal year and a summative evaluation in the 2011–12 fiscal year. An evaluation strategy for this program was finalized in August 2008. In April 2009, HRSDC informed the Treasury Board of Canada Secretariat that each of these evaluations will be postponed one year to allow for a more complete assessment of the program, taking into account recent and upcoming changes.

**2.38** Consequently, not only are CIC and HRSDC unable to determine the extent to which these programs are meeting their objectives and achieving their expected outcomes, they are missing valuable information that could be used when making changes to programs or designing new programs.

**2.39 Recommendation.** Citizenship and Immigration Canada and Human Resources and Skills Development Canada should carry out evaluations of permanent and temporary foreign worker programs according to their approved evaluation plans.

**The departments' response.** Agreed. The departments have initiated work on a joint, comprehensive evaluation of the Temporary Foreign Worker Program that will provide results in 2010–11. CIC is currently carrying out a comprehensive evaluation of the Federal Skilled Worker program; other programs in the permanent stream will be evaluated according to the CIC evaluation plan.

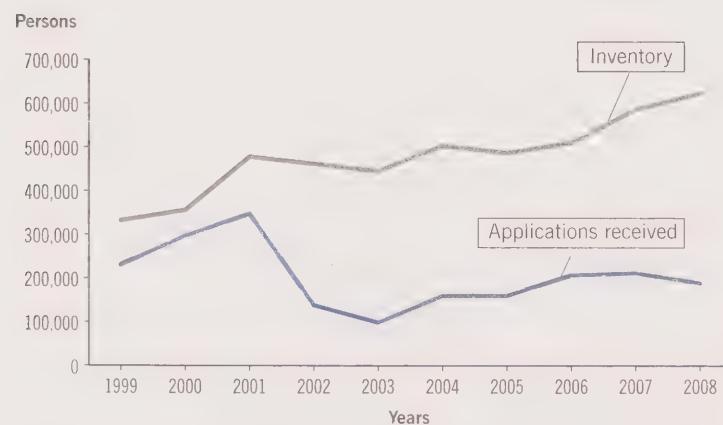
**Federal Skilled Worker category****The inventory of Federal Skilled Worker applications almost doubled since 2000**

**2.40** One of the great challenges facing Citizenship and Immigration Canada (CIC) today is managing the large inventory of applications under the Federal Skilled Worker (FSW) category. Until recently, CIC had no means to control the number of applications submitted and it was required by the *Immigration and Refugee Protection Act* (IRPA) to process them all to a final decision. When the number of applications received in a year exceeds what is required to meet the target level for the category, applications can sit in an inventory for long periods before prospective immigrants receive a decision. In such cases, Canada risks losing good candidates to other countries that make more timely decisions.

**2.41** In addition, long delays can hamper efficiency, as information submitted by applicants needs to be updated and numerous requests about the status of an application must be dealt with. Long delays also create uncertainty for applicants and prevent a timely response to the needs of the labour market.

**2.42** Since our last audit, the number of applicants awaiting a decision has almost doubled (Exhibit 2.6). At 31 December 1999, about 330,000 people—skilled workers and their families—were waiting to have their applications processed; the average waiting time was around 25 months. At 31 December 2008, more than 620,000 people in this category were waiting and the average processing time was 63 months.

**Exhibit 2.6 The inventory of applications of federal skilled workers awaiting a decision has increased significantly since the end of 1999**



\*The Office of the Auditor General has estimated the inventory from 1999 to 2003 based on data obtained from Citizenship and Immigration Canada (CIC).

Source: CIC International Region statistical reports as of 31 December of each year

**2.43** The size of the inventory and the average processing times vary significantly from mission to mission. At the end of December 2008, 10 missions accounted for 81 percent of the inventory; processing times in these missions ranged from 25 months in Buffalo to 87 months in Accra (Exhibit 2.7).

**Exhibit 2.7** Ten missions account for 81 percent of the inventory of federal skilled workers waiting for their applications to be processed

Missions	Inventory (people)	Average processing time* (months)
New Delhi	133,406	75
London	85,394	41
Manila	69,866	66
Islamabad	47,387	73
Damascus	44,280	76
Hong Kong	33,701	34
Singapore	28,378	50
Buffalo	24,410	25
Accra	21,179	87
Beijing	16,021	45
<b>Subtotal (81%)</b>	<b>504,022</b>	<b>61</b>
<b>All missions overseas (100%)</b>	<b>623,075</b>	<b>63</b>

\*Average number of months required to complete 80 percent of cases.

Source: Citizenship and Immigration Canada International Region statistical reports as of 31 December 2008

**2.44** Several factors have contributed to the growth of the inventory. The new *Immigration and Refugee Protection Act* had a significant impact on the inventory of applications for the Federal Skilled Worker category. As Exhibit 2.6 shows, in 2000 and 2001, following the announcement that legislative changes were planned, there was a significant increase in the number of applications submitted before the new legislation came into effect. This was followed in the next two years by a drastic decline in applications, when it became apparent that the new selection criteria were more stringent.

**2.45** During the same period, perceived unfairness in the processing of applications caught in the transition between acts led to litigation by some prospective immigrants, resulting in a court injunction

against CIC. While the injunction remained in effect—from June 2003 to April 2005—no applications received prior to the introduction of IRPA could be rejected on the basis that they did not meet the new criteria set in the Act. These applications could not be finalized and remained in the inventory. In addition, the Department became concerned that given the steep decline in new applications, it would not be able to meet target levels in 2004 and 2005. Consequently, in September 2003, in order to attract more applicants, the Minister of Citizenship and Immigration announced that the passing mark for selection under this category had been reduced. As a result, the number of applications received after 2003 increased, adding to the inventory. The significant reduction in the target levels for the FSW category in recent years was also a key factor in the growth of the inventory.

#### **Measures have been taken to reduce the size of the inventory**

**2.46** We examined whether the Department ensures that applications are processed within what it considers to be a reasonable period of time.

**2.47** We found that since 2004, CIC has considered various strategies to manage its inventory and reduce the number of applications received. For example, it considered seeking regulatory changes to allow it to impose limits on the intake of new applications. In 2006 it also considered increasing the passing mark for selection under the Federal Skilled Worker category. In 2008, it finally proposed amendments to the IRPA to support a new inventory management strategy.

**2.48** In June 2008, the IRPA was amended, removing the requirement that all completed applications received be processed to a final decision. The amendments also authorized the Minister to give instructions for processing applications, including establishing the number to be processed in any given year and the order in which they are to be processed.

**2.49** The first ministerial instructions were issued on 28 November 2008; they established eligibility criteria for all FSW applications received after 26 February 2008, the date on which the intent to amend the IRPA was announced. To be eligible for processing, applicants must have one year of experience in one or more of **38 occupations** identified by CIC; or have been in Canada legally for one year or longer as a temporary foreign worker or an international student; or have an offer of arranged employment. The main objectives of these eligibility criteria were to reduce the number of new

For a list of the 38 eligible occupations, visit Citizenship and Immigration Canada's website at [www.cic.gc.ca](http://www.cic.gc.ca).

applications and their processing times, and to ensure a better link between the selection of skilled workers and the needs of the labour market. Previously, all occupations under the National Occupational Classification 0, A, or B (351 occupations) were deemed eligible for processing.

**2.50** The Department expected that with significantly fewer occupations now eligible, the number of new applications would drop, and not all of them would be found eligible for processing. This would allow it to process all new applications as they came in, and it forecast that applicants would wait only 6 to 12 months for a decision. Operational instructions clearly indicate that eligible applications received on or after 27 February 2008 are to be processed as soon as possible and be given priority over older applications.

**2.51** The Department also expected that with fewer new applications to process, it could reduce the inventory of older applications by 33 percent over five years. This was based on the assumption that at least 70 percent of annual target levels set for the FSW category would be met by processing applications already in the inventory.

**2.52** In the 2008–09 fiscal year, the Department also took other administrative measures to reduce the inventory—for example, contacting applicants already in the inventory to offer a refund of their processing fee if they decided to withdraw their application rather than continue waiting for a decision; and coding all applications received in its computerized system so that provinces could have the opportunity to contact applicants who could qualify under their provincial nominee programs. Additional resources were also allocated to help missions with larger inventories. However, these measures had little success in reducing the inventory of applications received prior to 27 February 2008.

#### **The inventory reduction strategy is not based on sufficient analysis**

**2.53** CIC could not provide us with evidence of sufficient analysis to support the choice of the criteria set out in the ministerial instructions for assessing the eligibility of a FSW application. For example, it could not show us how it settled on reducing the number of admissible occupations as a criterion for eligibility, or any analysis of the extent to which this criterion would help reduce the number of new applications. Nor did it provide us with any analysis of its associated risks and its potential impact on the delivery of the program.

**2.54** In addition, the Department could not show us any analysis for selecting as an eligibility criterion the applicant's legal presence in Canada for one year or longer as a temporary foreign worker or an international student.

**2.55** Finally, the implementation of the ministerial instructions created some challenges for CIC. Between 27 February 2008 and 28 November 2008, applicants continued to apply without knowing that the list of eligible occupations would be reduced from 351 to 38. More than 59,000 applications were received during that period. The assessment of these applications started in December 2008, and CIC informed us that it will be completed by the end of March 2010. The Department expects that many of these applications will be found ineligible. Since processing fees are collected when the application is submitted, refunds to these applicants all over the world have to be made. CIC has estimated that it will have processed almost 45,000 refunds by the time this process is completed, which is now expected by the summer of 2010.

**2.56 Recommendation.** In developing future ministerial instructions, Citizenship and Immigration Canada should ensure that selected strategies are supported by strong policy, program, and operational analysis.

**The Department's response.** Agreed. The Department agrees with the importance placed on strong policy analysis in the issuance of future ministerial instructions.

To this end, the Department is working on several initiatives, including ensuring that diagnostic and analytical tools are in place for the monitoring and evaluation of the current ministerial instructions, improved analytical capacity around labour market information, and the exploration of options for expert advice to be regularly available to Citizenship and Immigration Canada regarding Canadian labour markets and current and projected occupational shortages.

#### **Trends in the number of eligible applications need to be monitored very closely**

**2.57** It is too early to assess the full impact of the new eligibility criteria and to determine whether and to what extent they will reduce the number of new applications to be processed and their processing times. By the end of June 2009, however, the Department was experiencing only a slight decrease in the number of FSW applications received monthly compared with previous years, and close to 80 percent of them appeared eligible to be processed.

**2.58** If the eligibility criteria do not serve their intended purpose of lowering the number of new applications to be processed, CIC will need to react quickly and consider alternative strategies to achieve this objective. Failure to do so could result in the creation of a new inventory of applications submitted since the ministerial instructions came into effect—and the Department would be unable to process new applications within the 6 to 12 months it has forecast.

**2.59** In 2008, CIC estimated, based on a number of assumptions and the information available at the time, that the inventory of applications on hand at the end of February 2008 might not be eliminated for another 8 to 25 years. At the time of our audit, CIC had not revised its estimates to take into account information currently available and its experience to date with the new eligibility criteria. The Department was therefore unable to determine when this inventory will likely be eliminated nor has it defined what would be a reasonable timeframe to do so. CIC's ability to reduce this inventory could be significantly impaired if the number of new applications to be processed is not reduced. The situation will be compounded if the target levels for the FSW category continue to be reduced.

**2.60** At the end of February 2008, there were 635,233 people (including dependants) in the old inventory of FSW applications. As of 30 June 2009, this inventory has been reduced to 451,948 people. However, such reduction was possible only because very few of the applications received since the ministerial instructions came into effect have been processed so far. Target levels for 2008 were met by processing only old applications. In future years, CIC will give priority to new applications and might process only a small percentage of old applications.

**2.61** As of 30 June 2009, the total inventory including both old and new applications amounted to 594,122 people, a reduction of 6.5 percent since the effective date of the ministerial instructions. This reduction, however, is mainly explained by the high refusal rate of applications received between 27 February 2008 and 28 November 2008 when eligibility criteria were unknown to applicants.

**2.62 Recommendation.** Citizenship and Immigration Canada should closely monitor the impact of the new eligibility criteria on the number of applications to be processed under the Federal Skilled Worker category and on the effectiveness of its inventory reduction strategy.

**The Department's response.** Agreed. The Department has introduced measures to ensure timely and comprehensive monitoring of the impact of the ministerial instructions. First, using existing data sources, the Department regularly tracks and analyzes data relating to, among other things, application intake rates, acceptance rates, and outcomes at key decision points throughout the processing continuum (i.e., from the Centralized Intake Office to processing and visa issuance at overseas missions). Second, the Department has introduced (effective June 2009) monthly reporting templates for overseas missions to capture more qualitative information on how the ministerial instructions are affecting the Federal Skilled Worker category. Taken together these initiatives will inform the need to revise ministerial instructions as appropriate.

**Strong structures and processes are needed to support the identification of priority occupations**

**2.63** The significant reduction in the number of occupations eligible for the FSW category represents a return to an approach driven by occupations in demand, similar to the approach in place before the *Immigration and Refugee Protection Act* (IRPA) was enacted. Identifying occupations in demand is a key mechanism chosen by the government to ensure a better link between the needs of the labour market and the selection of federal skilled workers. In our view, it is important that strong structures and processes support this mechanism.

**2.64** In our 2000 Report, we identified some deficiencies in the structures and processes in place to define what the Department called at the time “occupations in demand in Canada.” We noted then that the list of occupations that was used to select potential immigrants had not been updated for seven years and therefore might not be a true reflection of the Canadian labour market’s needs.

**2.65** In this audit, we found that CIC held extensive consultations with various stakeholders, including HRSDC and provinces and territories, before the ministerial instructions were issued. However, CIC has not determined the process and mechanisms needed to ensure that the list of occupations in demand remains up-to-date and reflects the needs of the labour market. In comparison, we noted that other countries carry out regularly scheduled, expert-based reviews and updates of listed occupations in demand.

**2.66** Furthermore, the majority of occupations listed under the ministerial instructions are regulated professions. Successful applicants admitted to Canada for those occupations will need to have their

credentials recognized by appropriate provincial boards or professional associations. Difficulties in obtaining that recognition could limit an applicant's ability to find employment in the occupation for which he or she was allowed to apply for permanent residency.

**2.67** Whether there was a reasonable prospect of foreign credential recognition was taken into account in identifying priority occupations. However, given the importance of foreign credential recognition to the successful integration of immigrants into the labour market, sustained effort and coordination of ongoing federal initiatives will be required. (Some of the federal initiatives are described under "Recognition of foreign credentials" paragraphs 2.130 to 2.138).

**2.68 Recommendation.** Citizenship and Immigration Canada, in consultation with key partners, should put in place structures and processes to ensure that the selected eligible occupations remain relevant to the changing needs of the Canadian labour market.

**The Department's response.** Agreed. Timely and accurate labour market information is an important component of ensuring that the ministerial instructions help meet the Government of Canada's goal of improving the labour market responsiveness of the immigration program. Over the next two years, Citizenship and Immigration Canada will work with key partners to explore options for structures and processes to better ensure the instructions meet their objectives. Part of this work includes exploring options for an external advisory body, such as the U.K.'s Migration Advisory Committee.

#### **Limited analysis was carried out to support the creation of the Centralized Intake Office for Federal Skilled Worker applications**

**2.69** In conjunction with the ministerial instructions issued in November 2008, the Department decided that the intake of Federal Skilled Worker applications would be centralized in Canada. Applicants are now instructed to send their application to the Centralized Intake Office (CIO) in Sydney, Nova Scotia. The Department informed us that the CIO was created as a pilot project to test assumptions surrounding CIC's long-term vision for client service, including centralizing the front-end processes of file creation in Canada. An initial budget of \$7.9 million over two years has been allocated for the CIO, with an additional \$18 million over three years to be reassessed as information becomes available on its effectiveness.

**2.70** The CIO receives applications without supporting documentation, creates files and enters data, collects processing fees, and pre-screens applications to determine whether an application

appears to be eligible under ministerial instructions. The information provided by applicants is not validated at this stage. When an application does not meet the eligibility criteria, the CIO informs the applicant and refunds the fees.

**2.71** If an application appears to meet the eligibility criteria for processing, the file is transferred electronically to the appropriate mission abroad and the applicant is instructed to resubmit his/her application with all required supporting documentation directly to the mission.

**2.72** While part of a broader initiative to modernize the immigration system, the CIO is meant to provide for consistency in implementing ministerial instructions and to facilitate the management of all fees. It is expected to reduce the workload of missions, since they would not have to process ineligible applications or manage fees.

**2.73** In 2008, however, many applications to which the ministerial instructions would apply retroactively had been received in missions before the instructions were issued and before the CIO opened. Missions were therefore variously involved in managing these files. While some missions created files, collected fees, and completed preliminary eligibility assessments, others sent those files to the CIO in Sydney when it opened, for eligibility review or management of fees.

**2.74** Given the investment involved and the potential impact on CIC's program delivery mechanisms, we expected that the decision to establish the CIO would be based on a sound analysis of its costs and benefits, risks, and potential impacts on program delivery. We found that although a number of options were considered, this was not the case.

**2.75** We also found that the Department encountered many problems in managing application fees when it centralized the intake of the FSW applications. The CIO accepts payments in Canadian currency only. However, a number of applicants did not have access to Canadian funds in their countries. In addition, the CIO was unable to reimburse applicants in eight countries where cheques issued by the Canadian government were not accepted.

**2.76** The Department has recognized that it will need to evaluate the CIO's cost effectiveness in light of experience gained over the first two years of its operation, and that assumptions surrounding its long-term vision for client service—including centralizing the front-end processes of file creation in Canada—might need to be modified.

**2.77** As of June 2009, results indicate that most files received in the CIO appear to be eligible for processing and are referred to missions abroad. This and the fact that CIC is considering electronic methods of payment for applicants could call into question the cost effectiveness and added value of this office, given its current mandate.

**2.78 Recommendation.** Citizenship and Immigration Canada should evaluate, after the first two years of operations, the cost-effectiveness of the Centralized Intake Office and the extent to which it is meeting its objectives.

**The Department's response.** Agreed. The Department intends to continue to move on its modernization agenda as quickly as possible with the support of the roll-out of our Global Case Management System. Within our vision of moving some work back to Canada and working in a more virtual network, the Centralized Intake Office operations will be evaluated and a decision made on its cost-effectiveness and its support to meet CIC overarching objectives. The evaluation of the Centralized Intake Office is included in the Department's Evaluation Plan in 2010/2011.

#### Provincial Nominee Program category

**2.79** The Provincial Nominee Program (PNP) enables provinces and territories, using their own selection criteria, to nominate candidates for admission as permanent residents to meet their specific labour market needs. Agreements with provinces and territories commit Citizenship and Immigration Canada (CIC) to process all provincial nominee applications as expeditiously as possible.

#### A number of issues require attention

**2.80** Provincial nominees are not subject to the requirements of the point system applicable to the Federal Skilled Worker (FSW) category, nor does CIC impose any minimum selection threshold for these candidates. Provincial nominee programs have become highly diverse and complex over time, with selection criteria that vary substantially from one province to another. At the time of our audit, they included more than 50 different categories, each with its own selection approach and criteria. PNP agreements do not require provinces and territories to obtain CIC's approval when they create new PNP categories; they are required only to inform CIC.

**2.81** In our view, given their increasing diversity and significant growth in recent years, it would be time to take stock of these programs and formally evaluate them to assess the extent to which they are achieving their intended results. PNP agreements call for CIC to

negotiate evaluation plans with the provinces and territories. The purpose is to ensure that provinces and territories will perform sufficient analysis at appropriate intervals to produce data that can be used to inform discussions about any modification that might be required to these agreements. Currently, no evaluation plans have been negotiated with the provinces and territories.

**2.82** CIC officials informed us that an evaluation of the PNP from a national perspective is currently scheduled for the 2010–11 fiscal year. The Department is working with provinces and territories in an attempt to develop criteria that will be common to all evaluations, with resulting evaluation information to be shared with CIC on a regular basis. It will be important that the proposed national evaluation be comprehensive and include all provincial and territorial information to which the Department is entitled under the various PNP agreements.

**2.83** CIC officials also informed us that although PNP agreements require the provinces and territories to collect information on the retention of nominees within their respective jurisdictions, the information is either absent or incomplete and not always shared with the Department. The lack of information on the retention of nominees was raised in recent reports of three provincial auditors general in which one specifically noted that this represented non-compliance with the PNP agreement.

**2.84** All but one of the PNP agreements also state that CIC will consider a nomination certificate issued by a province or territory as a determination that it has conducted due diligence to ensure that the applicant has the ability and is likely to become economically established in that province or territory. However, we found that CIC has not defined what constitutes due diligence, both in terms of how new categories are established and how applications are processed by provinces and territories. Nor has it justified the basis on which it can assume that individual provinces or territories will exercise due diligence, or assessed the extent to which they have carried it out. The Department has also not determined whether provinces and territories have implemented mechanisms such as a quality assurance framework to ensure that their nomination decisions are consistent and compliant with the *Immigration and Refugee Protection Act* (IRPA) and its Regulations, and their PNP criteria.

**2.85 Recommendation.** Citizenship and Immigration Canada should work with provinces and territories to ensure that, for the Provincial Nominee Program,

- mechanisms are in place to collect and share appropriate information against agreed upon evaluation criteria;
- evaluation plans are prepared and implemented to assess whether provincial nominee programs are meeting the objectives set out in the *Immigration and Refugee Protection Act* and Regulations; and
- quality assurance mechanisms are in place to ensure that nomination decisions are consistent and compliant with the *Immigration and Refugee Protection Act* and Regulations and their respective Provincial Nominee Program criteria.

**The Department's response.** Agreed. The Department has developed an evaluation framework and logic model for an evaluation of the Provincial Nominee Program, which is in the Department's Evaluation Plan for 2010/11. Common performance measures and indicators will be drawn from the longitudinal immigration database, which will provide information related to outcomes and retention for all provinces and territories. The Department remains open and committed to working with provinces and territories on any additional information sources and mechanisms they wish to have considered.

The evaluation will assess performance of provincial nominee programs against the objectives of the *Immigration and Refugee Protection Act* and Regulations.

Citizenship and Immigration Canada agrees with the need for quality assurance mechanisms and is open to working with provinces and territories to develop them. Should there be questions related to quality assurance, CIC can substitute its own evaluation of provincial and territorial nominations.

### Canadian Experience Class category

### Development of the Canadian Experience Class category is a good example of how programming decisions should be supported

**2.86** Studies ordered by Citizenship and Immigration Canada (CIC) in 2006 indicated that skilled workers with Canadian experience do better as permanent residents than those without it. Canadian experience before immigrating is mainly acquired through participating in the Temporary Foreign Worker Program or by working while studying in a Canadian institution. However, the CIC studies also indicated that only a small proportion of temporary foreign workers and international students apply for permanent resident status. The Department therefore believed there was a need for an effective bridge between temporary and permanent resident status.

**2.87** Consequently, the Canadian Experience Class category was launched in September 2008. This category allows skilled temporary foreign workers with Canadian work experience and international students with Canadian degrees and Canadian work experience to apply for permanent residency based on specific criteria related to their work experience and their knowledge of Canada's official languages. They do not have to leave the country to apply and do not have to meet the requirements of the point system applicable to the Federal Skilled Worker category. The Department estimated that the number of successful applicants in the Canadian Experience Class category will rise from a minimum of 5,000 in 2009 to more than 26,000 in 2012 category.

**2.88** We found that the work carried out by CIC to design and implement the Canadian Experience Class category included detailed options analysis, assessments of potential impacts on other programs, and a detailed risk assessment. In our view, this is a good example of how programming decisions should be supported.

## The Temporary Foreign Worker Program

**2.89** To address short-term regional or national shortages of skills or labour, Canada has a variety of programs designed to facilitate the entry of temporary foreign workers. These workers need to obtain a work permit from Citizenship and Immigration Canada (CIC), unless exempted under the *Immigration and Refugee Protection Regulations* (IRPR). Usually, a work permit is valid only for a specified job and length of time. There are no established limits on or target levels for the number of workers to be admitted under these programs. The number of applications processed each year depends mainly on the demand from employers. Human Resources and Skills Development Canada (HRSDC) and CIC share responsibility for the design and implementation of the Temporary Foreign Worker Program.

**2.90** The number of temporary work permit applications received abroad rose from 91,270 in 2002 to 204,783 in 2008, an increase of more than 124 percent. From 2007 to 2008 alone, the increase was 26 percent. This significant increase was due mainly to increased economic activity in various parts of the country and large projects needing temporary workers, such as oil sands development in Alberta and infrastructure development in British Columbia to support the 2010 Olympic and Paralympic Games. The long delays and the criteria used in the processing of applications under the Federal Skilled Worker (FSW) category also led employers to rely on temporary workers to address their immediate labour needs.

**2.91** Before offering temporary employment to foreign workers, a prospective employer must apply to HRSDC for a labour market opinion (LMO) unless exempted by the IRPR. HRSDC issues the opinion to both the employer and CIC, which can then process the application for the work permit.

**2.92** Given the significant increase in the demand for temporary foreign workers, the government's 2007 Budget provided close to \$150 million in additional funding to CIC and HRSDC over five years, with \$35.5 million annually thereafter, to improve the processing of applications. The intent was to reduce delays, respond more effectively to regional labour shortages, and improve the consistency and fairness of decision-making. Close to 80 percent of the funding went to HRSDC for processing applications for labour market opinions.

**2.93** Section 203(1) of the IRPR states, "On application . . . for a work permit made by a foreign national . . . an officer [of CIC] shall determine, on the basis of an opinion provided by the Department of Human Resources Development, if the job offer is genuine and if the employment of the foreign national is likely to have a neutral or positive effect on the labour market in Canada." The labour market opinion issued by HRSDC through its Service Canada regional offices is consequently the key tool used by CIC officers to make that determination. CIC officers in missions abroad must also ensure that the applicant is qualified to perform the work and intends to leave Canada when the work permit expires.

**2.94** HRSDC provides functional direction, support, and guidance to its regional offices on how to deliver LMOs consistently, taking into account the particular nature of the local or regional labour market. The regional offices are responsible for processing LMO applications from employers and delivering program services in their region.

**2.95** The IRPR include six factors to be considered in assessing the likely impact that the proposed entry of a temporary foreign worker will have on the Canadian labour market. Among these factors are whether an employer who applies for an LMO can demonstrate that efforts were made to recruit or train Canadian citizens or permanent residents before resorting to hiring a temporary foreign worker, that the wages offered are consistent with the prevailing regional wage for the occupation, and that the working conditions for the temporary foreign worker meet generally accepted Canadian standards. However, the Regulations are silent on the factors to be considered in assessing the genuineness of a job offer.

**Human Resources and Skills Development Canada's practices do not ensure the quality and consistency of decisions when issuing labour market opinions**

**2.96** We expected that HRSDC would process LMO applications efficiently and that it would have mechanisms in place to ensure that decisions were uniform and in compliance with the *Immigration and Refugee Protection Act* and Regulations, and the Department's own established procedures.

**2.97** We reviewed the process in place at HRSDC to issue labour market opinions, using a statistical sample of LMO applications processed between 1 October 2007 and 30 September 2008, along with the documentation provided to HRSDC by the employers. We also interviewed HRSDC employees at the Department's headquarters and in four regional offices.

**2.98** We found that HRSDC has implemented a number of initiatives aimed at improving the administration of labour market opinions. For example, in Alberta and British Columbia it established a pilot project, the Expedited Labour Market Opinion (e-LMO), which significantly reduced the time it took officers to process LMO applications that were part of the pilot. Other initiatives include centralizing the processing of LMOs for live-in caregiver positions to shorten processing times and make more consistent decisions. Due to initiatives such as these and to staff increases, average processing times for LMO applications overall improved from 38 days in the 2007–08 fiscal year to 17 days in the 2008–09 fiscal year.

**2.99** However, we found that directives on how to assess whether employers meet some or all of the factors outlined in the Regulations are not clear or are incomplete; interpretations vary from one regional office to another and even within the same office. For example, directives on determining prevailing wages do not provide specific guidance and are not well understood by HRSDC officers. Furthermore, each regional office uses labour market information differently to assess and determine prevailing wages. Also, until January 2009, directives on how to assess whether employers have made reasonable efforts to advertise job offers to Canadian citizens or permanent residents prior to requesting temporary foreign workers were not clear and did not provide criteria to perform such assessments. During the course of our audit, HRSDC has issued revised instructions aimed at clarifying employer requirements and providing clear and consistent evaluation criteria. We were also told by HRSDC officers that formal training was limited to an introductory course on how to assess applications for labour market opinions; it did

not include reviews or updates of procedures. HRSDC officials informed us that from March 2009 to May 2009, using updated training material, national headquarters staff conducted training sessions in the regions.

**2.100** Many of the files we reviewed lacked adequate documentation to support the opinion. There is no formal quality assurance system to ensure that opinions are consistent and compliant with the Act and Regulations. Toward the end of our audit, HRSDC initiated a project to develop a national quality assurance framework aimed at ensuring greater consistency of decisions across Canada.

**2.101 Recommendation.** Human Resources and Skills Development Canada should

- provide clear directives, tools, and training to officers engaged in issuing labour market opinions; and
- implement a quality assurance framework to ensure the quality and consistency of opinions across Canada.

**The Department's response.** Agreed. The Department has already taken steps to build on the program efficiencies achieved with Budget 2007 funding that will further enhance the effectiveness of processing labour market opinions. In this regard, the Department has put in place mechanisms to strengthen coordination with regional staff to enhance integrity, operations, and service delivery. This includes working with regions to develop new directives and clearer bulletins to improve national consistency in operations and decision-making. In March 2009, an electronic mailbox was created for regional staff to seek direction and exchange information on issues related to policy and operations. The Department continues to hold annual coordination meetings and monthly teleconferences between national headquarters and Service Canada regions to discuss operational and procedural issues. In July 2009, a new monthly teleconference was launched specific to integrity issues.

In June 2009, a new team was created to develop and implement a quality assurance framework that will strengthen the responsiveness, consistency, speed, and quality of decision-making when issuing labour market opinions. This initiative will also help to improve overall program integrity. The team is working closely with headquarters and regional staff to ensure the framework is informed by an understanding of the operational realities faced in each region, and can therefore be an effective tool to support national consistency in decision-making.

**The genuineness of job offers is not systematically verified**

**2.102** We found that HRSDC and CIC have not clearly defined their respective roles and responsibilities for assessing the genuineness of job offers and how that assessment is to be carried out. Both departments' operational manuals are silent on this matter.

**2.103** Such an assessment would include, for example, ensuring that the employer exists, can afford to pay the established wages, and that there is a real need for the worker.

**2.104** In some of the missions we visited, we found that CIC officers were not verifying the genuineness of job offers since they were under the impression that this was done by HRSDC when issuing an LMO. In other missions, CIC officers told us that this was a CIC responsibility but very difficult for them to perform, in light of their limited knowledge of the Canadian labour market's regional particularities, their workload, and their lack of access to employers.

**2.105** Our review of the LMOs issued by HRSDC confirmed that they provide an opinion only on labour market effect and not on the genuineness of job offers. HRSDC officers informed us that, although they considered themselves better positioned than CIC officers to perform such assessments, they were under the impression they did not have the authority to do so.

**2.106** This lack of systematic assessment of the genuineness of job offers creates significant risks to the integrity of the Temporary Foreign Worker Program since work permits could be issued for employers or jobs that do not exist.

**2.107 Recommendation.** Citizenship and Immigration Canada and Human Resources and Skills Development Canada should clarify their respective roles and responsibilities, and put mechanisms in place to ensure that the genuineness of job offers is systematically verified.

**The departments' response.** Agreed. The departments are working together to make improvements in these areas. The departments are also developing regulatory options to strengthen the integrity of the Temporary Foreign Worker Program including clarity around roles and responsibilities. Part of this work focuses on more structured assessments of the genuineness of both employers and jobs offered to temporary foreign workers. A new information-sharing agreement between CIC and HRSDC will enable a more active exchange of information pertinent to the assessment of the genuineness of job offers.

Additionally, new interdepartmental working groups and information-exchange mechanisms have been established to ensure better communication and coordination of program development and implementation.

**Concerns remain about the integrity of the program and the protection of temporary foreign workers**

**2.108** Various studies and reports over the years have recognized that lower-skilled temporary foreign workers entering Canada may be vulnerable to exploitation or poor working conditions, usually because of their economic conditions, linguistic isolation, and limited understanding of their rights.

**2.109** For example, the Live-in Caregiver program permits applicants to be selected for permanent residency after being employed as a caregiver for two out of three years. There is a risk that live-in caregivers may tolerate abuse, poor working conditions, and poor accommodations so as not to lose the opportunity to become permanent residents. The program's requirement that the caregiver reside in the employer's home can put them particularly at risk. A number of CIC internal reports, some dating back as far as 1994, raised serious concerns about abuse of this program by employers and immigration consultants, as well as risks to individuals.

**2.110** Temporary foreign workers hired through the pilot project for occupations requiring lower levels of formal training may also be at risk of similar abuse and poor working conditions. Concerns over this vulnerability have grown with the surge in labour market opinion applications for this pilot project, which went from 12,627 in 2006 to 68,568 in 2008. Some measures were taken to mitigate these risks when the pilot was launched in 2002, such as requiring an employment contract, employer-paid transportation, and health care.

**2.111** We found, however, that with the exception of e-LMOs, there has been no systematic follow-up by either CIC or HRSDC to verify that employers are complying with the terms and conditions under which the LMO application was approved, such as wages to be paid and accommodations to be provided. The e-LMO is a pilot project in which employers consent to compliance reviews in exchange for an expedited process. Employers who participate in the e-LMO pilot project are required to demonstrate adherence to wages, standards for working conditions, recruitment efforts, and other requirements. Employers that do not wish to participate in the pilot and to undergo a

compliance review have the option of applying for an LMO through the regular process.

**2.112** This lack of follow-up on job offers can have implications not only for the integrity of the programs but also for the well-being of foreign workers. CIC and HRSDC officials told us that neither the IRPA nor the Regulations give them authority to conduct compliance reviews of employers who have not consented. We were informed by both departments that regulatory modifications aimed at resolving some of these issues are currently being considered.

**2.113** The total number of applications received in missions overseas for the Live-in Caregiver program went from 6,178 in 2002 to 20,799 in 2008, an increase of more than 236 percent. Given such growth and the inherent risks in this program, it is difficult to understand why it has never been formally evaluated by CIC since 1992, when it replaced the Foreign Domestic Movement Program.

**2.114** Furthermore, we noted that the pilot project for occupations requiring lower levels of formal training was launched with limited analysis of risks and without any formal goal, objectives, or basis on which to evaluate its success, nor has it been formally evaluated since then. It has been a pilot for seven years. Combined with live-in caregivers, temporary foreign workers under this pilot project now account for more than half of all temporary foreign workers in Canada.

**2.115** We found that immigration program managers and officers we interviewed in missions abroad were concerned about the level of misrepresentation or fraud from temporary foreign workers, employers, and their representatives in relation to work permit applications. HRSDC officers told us they have the same concerns about LMO applications from employers and their representatives.

**2.116** We noted that the IRPA does not provide any mechanism to impose administrative sanctions on employers or their representatives for compromising the integrity of the Temporary Foreign Worker Program. For example, an employer may submit a new LMO application even after misrepresenting a previous application. In our view, effective administrative sanctions would have a deterrent effect and could reduce the number of fraudulent applications.

**2.117 Recommendation.** Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC) should implement mechanisms that would better enable them to ensure the integrity of the Temporary Foreign Worker Program and the protection of individuals.

**The departments' response.** Agreed. The departments have already taken steps to enhance program integrity and improve worker protections. For example, HRSDC has introduced new compliance review initiatives to better detect and address instances of non-compliance with conditions specified on labour market opinions. Information-sharing agreements with a number of provinces are either signed or forthcoming to support enforcement of federal and provincial laws and standards. In the spring, new policies were introduced that limit labour market opinion validity to six months and enable the revocation of labour market opinions when the conditions that supported that opinion are found to be no longer valid. Also, in June 2009, an electronic mailbox was created at HRSDC for CIC and Canada Border Services Agency staff to seek direction on specific labour market opinions issued by HRSDC, as well as providing a mechanism for reporting possible fraud.

CIC and HRSDC continue to explore options for improving the Temporary Foreign Worker Program, including changes to the *Immigration and Refugee Protection Regulations* that would introduce enhanced monitoring of employers' compliance with program requirements and permit refusal of service in instances where the requirements have not been met.

## Processing of applications

**2.118** In our April 2000 Report, we identified several problems with the efficiency and quality of application processing in missions overseas. Employees in offices abroad were buried in paperwork and spending a great deal of their time receiving and recording data for immigration applications, archiving files, handling correspondence, and collecting and reimbursing fees.

**2.119** We made several recommendations for improvement; the Department accepted them and outlined measures it would take to implement them. In our current audit, we therefore expected to find that the Department is now processing applications from foreign workers efficiently and has in place effective quality control and quality assurance procedures to ensure that decisions are consistent and comply with the *Immigration and Refugee Protection Act* and *Regulations*.

## Citizenship and Immigration Canada has improved some of its practices

**2.120** We found that Citizenship and Immigration Canada (CIC) has identified Client Service Modernization as one of its priorities since 2006. It developed a Client Service Improvement Framework to

guide the planning of initiatives and the development and delivery of solutions aimed at improving efficiency and client services.

**2.121** In addition, CIC has successfully implemented a number of initiatives and tools to address some inefficiencies in the processing of applications abroad. These include on-line validation of education diplomas in some missions, an increased use of third party language tests, and banking arrangements that remove the handling of cash from many missions. It has also implemented Visa Application Centres (VACs) in some countries to facilitate the visa application process for temporary resident applicants. VACs are private organizations that provide services on behalf of CIC. The aim is to increase client access to service, improve the quality of applications, and improve security at the missions by reducing in-person applications. We visited three missions where applicants can choose to use the services of a VAC. Staff at these missions said they appreciated the reduced paper burden and the quality of the applications they were receiving. CIC, however, has not yet conducted a formal cost-benefit assessment of these VACs.

#### **Delays in implementing new technologies have seriously limited efficiency gains**

**2.122** In our 2000 Report, we noted that outdated technology in CIC offices abroad was a serious obstacle to improving efficiency. As part of its response to our recommendation, CIC stated, “Enhancements to our IT systems and infrastructure will significantly improve our ability to do business, both in terms of increased program integrity and better client service.” It also said that it was committed to developing and implementing its Global Case Management System (GCMS) to support its client case management operations. After a failed \$80 million systems upgrade project initiated in 1994, CIC had just launched GCMS, which it viewed as the solution to support the Department’s entire client case management operations.

**2.123** Our 2006 audit of large information technology projects looked at GCMS. We found that CIC had to struggle with a number of problems, including changes in the project’s scope, difficulties in accessing funds, and a lack of people with the skills needed to manage the project. Various internal reviews had shown that GCMS was more complex than expected and faced unforeseen challenges.

**2.124** Although we did not re-examine the GCMS development process in this audit, we noted that in 2008 the government approved a reduced project scope focusing on Canadian immigration programs abroad. The estimated total cost of GCMS is now around \$387 million, up from an original estimate of \$194.8 million. Its implementation

in missions abroad is scheduled to begin in June 2010, almost 10 years after the initial launch of the project. We found that as a result of the delays in implementing this system, employees in offices abroad are still burdened by paperwork and spend a great deal of their time on clerical tasks.

**2.125** Starting in 2011, the Department plans to implement in its overseas operations additional automated tools related to the processing of applications, including electronic applications and electronic payments. The Department told us that its goal is to create a client continuum—an electronic record that captures all immigration transactions for an individual—and shift to full electronic processing. Considering its past experience in system development, CIC will need to carefully manage all the risks associated with these projects to ensure that they will be completed on time and on budget.

**2.126** In our view, efficiency gains will be seriously limited until GCMS is implemented in missions abroad and CIC makes effective use of available technologies.

#### **A quality assurance framework has not yet been implemented**

**2.127** In our 2000 Report, we also raised concerns about the quality of visa officers' decisions on applications to immigrate to Canada. We stressed the need for a quality assurance framework to ensure that decisions are consistent and fair.

**2.128** The Department subsequently developed a quality assurance framework that is available to all missions, but there is no requirement for immigration program managers to implement it or to report on quality assurance. Consequently, while some quality assurance is performed in some missions when time permits, it is not comprehensive, not necessarily consistent with the framework, and does not ensure the overall quality and consistency of decisions. Of the eight missions we visited, only one had recently implemented the framework.

**2.129 Recommendation.** Citizenship and Immigration Canada should ensure that its quality assurance framework is implemented fully and consistently in all missions.

**Department's response.** Agreed. Citizenship and Immigration Canada has recognized the importance of consistency in all of our program delivery. As we move to modernize our service delivery model we will ensure that quality assurance is a key objective of our program delivery and that it is applied in a consistent and risk-based fashion within two years.

**Recognition of foreign credentials****The federal government is contributing to the recognition of foreign credentials**

**2.130** The importance of foreign credential recognition to the successful integration of immigrants into the labour market has been recognized for a long time. The *Immigration and Refugee Protection Act* provides for the federal government to work in cooperation with the provinces and territories to achieve this objective. We therefore expected that Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC) would have implemented programs to meet the government's commitments to facilitating foreign credential recognition.

**2.131** Provincial and territorial governments have jurisdiction over the regulation of skilled trades and most professions. The federal government's role is to provide strategic leadership to foster the development of a consistent nationwide approach to recognizing foreign credentials.

**2.132** In 2005, the federal government launched the Internationally Trained Workers Initiative, a comprehensive strategy for integrating Canadians and immigrants trained abroad into Canada's labour force. The Foreign Credential Recognition program (FCRP) was part of this initiative; this contribution program delivered by HRSDC provides funding to provinces, territories, and stakeholders such as regulatory bodies, educational institutions, and the private sector to promote the recognition of foreign credentials for targeted occupations.

**2.133** The government also established a new organization within CIC, the Foreign Credentials Referral Office (FCRO), which began operating in May 2007. Its purpose is to provide internationally trained and educated individuals with access to integrated, authoritative information about the Canadian labour market and credential assessment, recognition, and licensing processes and to provide path-finding and referral services.

**2.134** Exhibit 2.8 provides an overview of federal funding for these two initiatives over the last eight years.

**2.135** HRSDC carried out an evaluation of the FCRP in 2008 to assess the program's relevance, impacts, and cost-effectiveness. At the time of our audit, the evaluation report was being finalized. Preliminary findings indicate that the program is consistent with federal priorities and has contributed to a greater understanding and awareness of foreign credential recognition issues among stakeholders.

**2.136** The FCRO informed us that in the 2008–09 fiscal year, foreign credential recognition information has been provided to over 350,000 website visitors and that close to 38,000 in-person visits or telephone calls were made to Service Canada regional offices. The FCRO has put in place the necessary elements to carry out an evaluation of its performance, but it is too early in its operations to do so.

**A nationwide framework for recognition of foreign credentials is being developed**

**2.137** In early 2009, first ministers and territorial leaders agreed to take specific action to develop a pan-Canadian framework for foreign qualification assessment and recognition by September 2009. In its 2009 Budget, the federal government committed \$50 million over two years to support the development and the implementation of the framework.

**2.138** The Forum of Labour Market Ministers, led by HRSDC, is developing the framework. Its overall objective is to ensure that after submitting an application for licensing or registration, newcomers will receive a timely response as to whether their qualifications will be recognized or what additional requirements they must meet for registration, or they will be directed to alternative pathways commensurate with their skills and experience.

**Exhibit 2.8 The federal government contributes funding to programs that foster recognition of foreign credentials (\$ millions)**

Funded	2003–04	2004–05	2005–06	2006–07	2007–08	2008–09	2009–10	Total
<b>Foreign Credential Recognition Program</b>	1.0	6.5	9.5	16.5	17.4	16.4	29.6	96.9
<b>Foreign Credentials Referral Office*</b>	N/A	N/A	N/A	N/A	7.3	6.4	13.9	27.6

\* Includes funding provided to Human Resources and Skills Development Canada (HRSDC) for service delivery in Canada. The Office began operating in May 2007.

Source: HRSDC and Citizenship and Immigration Canada

## Conclusion

**2.139** Overall, we found that current practices of Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC) do not ensure that foreign worker programs are delivered efficiently and effectively.

**2.140** Although the process followed by CIC to design the Canadian Experience Class category was very good, other key decisions were made in recent years without a thorough analysis of their costs and benefits, risks, and potential impacts on other programs and delivery mechanisms. Program changes have caused a significant shift in the types of workers being admitted permanently to Canada under the Economic class. Until it develops a strategic roadmap for the future and it evaluates the performance of its current programs, CIC will not be in a position to demonstrate that its programming best meets the needs of the Canadian labour market.

**2.141** Managing the large inventory of applications under the Federal Skilled Worker (FSW) category is a major challenge. Measures taken by CIC in 2008 to limit the number of new Federal Skilled Worker applications were implemented without sufficient analysis. While it is too early to assess their full impact, the trends in the number of new applications received since the beginning of 2009 indicate they might not have the desired effect. CIC will have to monitor the situation closely and might need to consider other strategies to achieve this objective. Failure to do so could result in CIC being unable to process new applications within the 6 to 12 months it has forecast. In addition, the Department's ability to reduce the inventory of some 635,000 applicants on hand at the end of February 2008 could be significantly impaired.

**2.142** The issues we noted in the delivery of the Temporary Foreign Worker Program pose significant risks to the integrity of the program and could leave many foreign workers in a vulnerable position, particularly those who are physically or linguistically isolated from the general community or are unaware of their rights. In particular, the fact that HRSDC and CIC have not defined their respective roles and responsibilities in assessing the genuineness of job offers could result in work permits being issued for employers or jobs that do not exist. There is also no systematic follow-up by either CIC or HRSDC to ensure that in their previous and current employment of temporary foreign workers, employers have complied with the terms and conditions (such as wages and accommodations) under which the

work permits were issued. Finally, HRSDC's practices in issuing labour market opinions do not ensure the quality and consistency of decisions.

**2.143** In its processing of applications in missions overseas, CIC has successfully introduced a number of initiatives and tools to address some of the inefficiencies we noted in 2000. However, an information technology system that is key to its plans has been under development for almost 10 years. As a result, employees in offices abroad are still buried in paperwork and spending a great deal of their time on clerical tasks. In addition, the Department has not yet implemented a quality assurance framework to obtain assurance that decisions made by its visa officers are fair and consistent.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objective

The audit objective was to determine whether Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC) efficiently and effectively handle program planning and delivery to facilitate the entry of permanent and temporary foreign workers into Canada.

### Scope and approach

Our audit covered the planning and management of the following programs since the introduction of the *Immigration and Refugee Protection Act* (IRPA) in 2002:

- Federal Skilled Worker,
- Canadian Experience Class,
- Live-in Caregiver,
- Provincial Nominee Program,
- Temporary Foreign Worker Program,
- Foreign Credentials Referral Office, and
- Foreign Credential Recognition Program.

In addition, we followed up on some observations and recommendations that we made in our April 2000 report, Chapter 3, Citizenship and Immigration Canada—The Economic Component of the Canadian Immigration Program.

At CIC, we interviewed key people involved in processing applications from foreign workers, reviewed files, records, and reports, and analyzed management information databases. We also conducted audit work at the following missions abroad: Beijing, Buffalo, London, Manila, Mexico, New Delhi, Paris, and Port-of-Spain.

At HRSDC, we interviewed officers and managers in four regions—Vancouver, Edmonton, Toronto, and Montreal—and at HRSDC's headquarters, and we reviewed files, records, and reports. Furthermore, we examined a statistical sample of 99 labour market opinion (LMO) applications across Canada for the period from 1 October 2007 to 30 September 2008.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
<b>Planning of programs</b>	
We expected that Citizenship and Immigration Canada (CIC) and Human Resources and Skills Development Canada (HRSDC) would have adequately planned their programs to facilitate the entry of foreign workers into Canada.	<ul style="list-style-type: none"> <li>• <i>Immigration and Refugee Protection Act</i>, sections 3.(1)(a), (c), and (f), and 87.3(2)</li> <li>• Treasury Board of Canada Secretariat, Management Accountability Framework, Round V—Stewardship (2007)</li> </ul>
<b>Inventory</b>	
We expected that CIC would have managed the inventory of applications for federal skilled workers in a way that ensures processing within a reasonable time period as defined by CIC.	<ul style="list-style-type: none"> <li>• <i>Immigration and Refugee Protection Act</i>, section 87.3</li> <li>• Treasury Board of Canada Secretariat, Management Accountability Framework, Round V—Stewardship (2007)</li> </ul>
<b>Processing of applications</b>	
We expected that CIC would have efficiently processed applications from foreign workers, and that HRSDC would have efficiently processed applications for labour market opinions.	<ul style="list-style-type: none"> <li>• Treasury Board of Canada Secretariat, Management in the Government of Canada: A Commitment to Continuous Improvement (2004)</li> <li>• Treasury Board of Canada Secretariat, Management Accountability Framework, Round V—Stewardship (2007)</li> <li>• Citizenship and Immigration Canada's, operations manual, OP 1—Procedures, 5.14, Processing priorities</li> <li>• Treasury Board of Canada Secretariat, Service Standards: A Guide to the Initiative</li> <li>• Treasury Board, Policy on Service Standards for External Fees (2004)</li> </ul>
We expected that CIC and HRSDC would have effective quality control and assurance procedures in place to ensure that decisions are consistent and in compliance with the <i>Immigration and Refugee Protection Act</i> and Regulations, and operational procedures in processing applications.	<ul style="list-style-type: none"> <li>• <i>Immigration and Refugee Protection Act</i>, 3(1)(f) and 3(3)(d)</li> <li>• April 2000 Report of the Auditor General of Canada, Chapter 3, Citizenship and Immigration Canada—The Economic Component of the Canadian Immigration Program</li> <li>• Citizenship and Immigration Canada, operations manual FW 1 Procedures for Temporary Foreign Workers, Appendix J, page 171</li> <li>• Citizenship and Immigration Canada, operations manual OP 1—Procedures, 9.2</li> </ul>
<b>Foreign credential recognition</b>	
We expected that CIC and HRSDC would have implemented programs to meet the government's commitments to facilitating foreign credential recognition.	<ul style="list-style-type: none"> <li>• <i>Immigration and Refugee Protection Act</i>, section 3(1)(j)</li> <li>• <i>Federal Accountability Act</i>, 2006</li> <li>• Budget Plan 2006</li> <li>• Department of Finance Canada, Advantage Canada, 2006</li> <li>• Treasury Board of Canada Secretariat, Management Accountability Framework, Round VI—Policy and programs (2008)</li> </ul>

Management reviewed and accepted the suitability of the criteria used in the audit.

### **Period covered by the audit**

With the exception of the Foreign Credential Recognition line of enquiry, whose period audited started at the launching of the Internationally Trained Workers Initiative in 2005, and the review of labour market opinion applications, which was based on a statistical sample of applications processed between 1 October 2007 and 30 September 2008, the period audited for this Chapter goes from the coming into effect of the *Immigration and Refugee Protection Act* in June 2002 until 30 June 2009.

Audit work for this chapter was substantially completed on 30 June 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 2. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p><b>Strategic planning and programming</b></p> <p><b>2.34</b> To strengthen its strategic planning, Citizenship and Immigration Canada (CIC) should</p> <ul style="list-style-type: none"> <li>• develop, in consultation with provinces and territories, a strategic roadmap for the future of the immigration program including a clear vision of what each category is expected to contribute, on a multi-year basis, toward achieving the objectives of the Economic class; and</li> <li>• take the necessary steps to ensure that its programming is optimal and closely aligned with that vision.</li> </ul> <p>(2.24–2.33)</p>	<p>Agreed. Work is already underway that will contribute to the vision and future of the immigration program. A notable example is the Department's work on the broader modernization of the immigration program, including measures that have policy, operational, and service improvement and technological components. In addition, the evaluation of the Federal Skilled Worker program and work on regulatory changes to the Temporary Foreign Worker Program to address concerns around program integrity are two more current areas of activity that support the modernization of the immigration system. Taken together, this work will lead to the development of an immigration roadmap, which will be developed in consultation with our provincial and territorial partners over the next two years.</p> <p>In terms of the balance between categories in the Economic class, Citizenship and Immigration Canada launched a process in November 2008 with provinces and territories to develop a common approach for understanding how various programs under the Economic class, such as Federal Skilled Worker and Provincial Nominee, contribute to meeting the economic objectives for immigration, such as responding to labour-market needs. Part of this effort involves achieving an appropriate balance among programs.</p>
<p><b>2.39</b> Citizenship and Immigration Canada and Human Resources and Skills Development Canada (HRSDC) should carry out evaluations of permanent and temporary foreign worker programs according to their approved evaluation plans.</p> <p>(2.35–2.38)</p>	<p>Agreed. The departments have initiated work on a joint, comprehensive evaluation of the Temporary Foreign Worker Program that will provide results in 2010–11. CIC is currently carrying out a comprehensive evaluation of the Federal Skilled Worker program; other programs in the permanent stream will be evaluated according to the CIC evaluation plan.</p>

Recommendation	Response
<b>Federal skilled workers</b>	
<p><b>2.56</b> In developing future ministerial instructions, Citizenship and Immigration Canada should ensure that selected strategies are supported by strong policy, program, and operational analysis. (2.53–2.55)</p>	<p>Agreed. The Department agrees with the importance placed on strong policy analysis in the issuance of future ministerial instructions.</p>
<p><b>2.62</b> Citizenship and Immigration Canada should closely monitor the impact of the new eligibility criteria on the number of applications to be processed under the Federal Skilled Worker category and on the effectiveness of its inventory reduction strategy. (2.57–2.61)</p>	<p>To this end, the Department is working on several initiatives, including ensuring that diagnostic and analytical tools are in place for the monitoring and evaluation of the current ministerial instructions, improved analytical capacity around labour market information, and the exploration of options for expert advice to be regularly available to Citizenship and Immigration Canada regarding Canadian labour markets and current and projected occupational shortages.</p>
<p><b>2.68</b> Citizenship and Immigration Canada, in consultation with key partners, should put in place structures and processes to ensure that the selected eligible occupations remain relevant to the changing needs of the Canadian labour market. (2.63–2.67)</p>	<p>Agreed. The Department has introduced measures to ensure timely and comprehensive monitoring of the impact of the ministerial instructions. First, using existing data sources, the Department regularly tracks and analyzes data relating to, among other things, application intake rates, acceptance rates, and outcomes at key decision points throughout the processing continuum (i.e., from the Centralized Intake Office to processing and visa issuance at overseas missions). Second, the Department has introduced (effective June 2009) monthly reporting templates for overseas missions to capture more qualitative information on how the ministerial instructions are affecting the Federal Skilled Worker category. Taken together these initiatives will inform the need to revise ministerial instructions as appropriate.</p>
	<p>Agreed. Timely and accurate labour market information is an important component of ensuring that the ministerial instructions help meet the Government of Canada's goal of improving the labour market responsiveness of the immigration program. Over the next two years, Citizenship and Immigration Canada will work with key partners to explore options for structures and processes to better ensure the instructions meet their objectives. Part of this work includes exploring options for an external advisory body, such as the U.K.'s Migration Advisory Committee.</p>

Recommendation	Response
<p><b>2.78</b> Citizenship and Immigration Canada should evaluate, after the first two years of operations, the cost-effectiveness of the Centralized Intake Office and the extent to which it is meeting its objectives. (2.69–2.77)</p>	<p>Agreed. The Department intends to continue to move on its modernization agenda as quickly as possible with the support of the roll-out of our Global Case Management System. Within our vision of moving some work back to Canada and working in a more virtual network, the Centralized Intake Office operations will be evaluated and a decision made on its cost-effectiveness and its support to meet CIC overarching objectives. The evaluation of the Centralized Intake Office is included in the Department's Evaluation Plan in 2010/2011.</p>

### Provincial Nominee Program

<p><b>2.85</b> Citizenship and Immigration Canada should work with provinces and territories to ensure that, for the Provincial Nominee Program,</p> <ul style="list-style-type: none"> <li>mechanisms are in place to collect and share appropriate information against agreed upon evaluation criteria;</li> <li>evaluation plans are prepared and implemented to assess whether provincial nominee programs are meeting the objectives set out in the <i>Immigration and Refugee Protection Act</i> and Regulations; and</li> <li>quality assurance mechanisms are in place to ensure that nomination decisions are consistent and compliant with the <i>Immigration and Refugee Protection Act</i> and Regulations and their respective Provincial Nominee Program criteria. (2.80–2.84)</li> </ul>
---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------

Agreed. The Department has developed an evaluation framework and logic model for an evaluation of the Provincial Nominee Program, which is in the Department's Evaluation Plan for 2010/11. Common performance measures and indicators will be drawn from the longitudinal immigration database, which will provide information related to outcomes and retention for all provinces and territories. The Department remains open and committed to working with provinces and territories on any additional information sources and mechanisms they wish to have considered.

The evaluation will assess performance of provincial nominee programs against the objectives of the *Immigration and Refugee Protection Act* and Regulations.

Citizenship and Immigration Canada agrees with the need for quality assurance mechanisms and is open to working with provinces and territories to develop them. Should there be questions related to quality assurance, CIC can substitute its own evaluation of provincial and territorial nominations.

## Recommendation

## Response

**The Temporary Foreign Worker Program**

**2.101** Human Resources and Skills Development Canada should

- provide clear directives, tools, and training to officers engaged in issuing labour market opinions; and
- implement a quality assurance framework to ensure the quality and consistency of opinions across Canada. (2.96–2.100)

Agreed. The Department has already taken steps to build on the program efficiencies achieved with Budget 2007 funding that will further enhance the effectiveness of processing labour market opinions. In this regard, the Department has put in place mechanisms to strengthen coordination with regional staff to enhance integrity, operations, and service delivery. This includes working with regions to develop new directives and clearer bulletins to improve national consistency in operations and decision-making. In March 2009, an electronic mailbox was created for regional staff to seek direction and exchange information on issues related to policy and operations. The Department continues to hold annual coordination meetings and monthly teleconferences between national headquarters and Service Canada regions to discuss operational and procedural issues. In July 2009, a new monthly teleconference was launched specific to integrity issues.

In June 2009, a new team was created to develop and implement a quality assurance framework that will strengthen the responsiveness, consistency, speed, and quality of decision-making when issuing labour market opinions. This initiative will also help to improve overall program integrity. The team is working closely with headquarters and regional staff to ensure the framework is informed by an understanding of the operational realities faced in each region, and can therefore be an effective tool to support national consistency in decision-making.

## Recommendation

## Response

**2.107** Citizenship and Immigration Canada and Human Resources and Skills Development Canada should clarify their respective roles and responsibilities, and put mechanisms in place to ensure that the genuineness of job offers is systematically verified. (2.102–2.106)

Agreed. The departments are working together to make improvements in these areas.

The departments are also developing regulatory options to strengthen the integrity of the Temporary Foreign Worker Program including clarity around roles and responsibilities. Part of this work focuses on more structured assessments of the genuineness of both employers and jobs offered to temporary foreign workers. A new information-sharing agreement between CIC and HRSDC will enable a more active exchange of information pertinent to the assessment of the genuineness of job offers.

Additionally, new interdepartmental working groups and information-exchange mechanisms have been established to ensure better communication and coordination of program development and implementation.

**2.117** Citizenship and Immigration Canada and Human Resources and Skills Development Canada should implement mechanisms that would better enable them to ensure the integrity of the Temporary Foreign Worker Program and the protection of individuals. (2.108–2.116)

Agreed. The departments have already taken steps to enhance program integrity and improve worker protections. For example, HRSDC has introduced new compliance review initiatives to better detect and address instances of non-compliance with conditions specified on labour market opinions. Information-sharing agreements with a number of provinces are either signed or forthcoming to support enforcement of federal and provincial laws and standards. In the spring, new policies were introduced that limit labour market opinion validity to six months and enable the revocation of labour market opinions when the conditions that supported that opinion are found to be no longer valid. Also, in June 2009, an electronic mailbox was created at HRSDC for CIC and Canada Border Services Agency staff to seek direction on specific labour market opinions issued by HRSDC, as well as providing a mechanism for reporting possible fraud.

CIC and HRSDC continue to explore options for improving the Temporary Foreign Worker Program, including changes to the *Immigration and Refugee Protection Regulations* that would introduce enhanced monitoring of employers' compliance with program requirements and permit refusal of service in instances where the requirements have not been met.

Recommendation	Response
<p><b>Processing of applications</b></p> <p><b>2.129</b> Citizenship and Immigration Canada should ensure that its quality assurance framework is implemented fully and consistently in all missions. (2.127–2.128)</p>	<p>Agreed. Citizenship and Immigration Canada has recognized the importance of consistency in all of our program delivery. As we move to modernize our service delivery model we will ensure that quality assurance is a key objective of our program delivery and that it is applied in a consistent and risk-based fashion within two years.</p>

# Report of the Auditor General of Canada to the House of Commons—Fall 2009

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FALL

Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**Chapter 3**  
Income Tax Legislation



Office of the Auditor General of Canada



# 2009



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Income Tax Legislation



Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises *Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters*. The main table of contents for the Report is found at the end of this publication.

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Chapter

# 3

Income Tax Legislation



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# Income Tax Legislation

## Main Points

### What we examined

The Department of Finance Canada is responsible for formulating tax policy at the federal level and for developing the legislation and regulations needed to implement federal tax measures. In the past, the Department has developed legislative amendments to address technical deficiencies in the *Income Tax Act*, in order to more clearly convey the intent of the legislation or to make it easier for taxpayers to comply with it. Packages of technical amendments have first been released for public comment and then tabled in Parliament in the form of a technical bill. Usually these amendments do not involve any reconsideration of tax policy.

The Canada Revenue Agency is responsible for applying and interpreting the *Income Tax Act*—one of the longest and most complex pieces of Canadian legislation. The primary goal of the Agency as Canada’s tax administrator is to ensure that taxpayers comply with their obligations and that Canada’s tax base is protected.

We looked at how the Department of Finance Canada develops technical amendments for tabling in Parliament; we did not examine the process for developing legislative amendments that involve changes in tax policy.

In addition, we examined how the Canada Revenue Agency provides taxpayers and its tax auditors with guidance on the application and interpretation of the *Income Tax Act*, and how it assists the Department of Finance Canada in identifying and developing technical changes that may be needed in the legislation. The audit covered the period from 2004 to 2009, with relevant historical information reviewed back to 1973.

### Why it's important

Canada’s tax system relies on taxpayers to self-assess and pay the income taxes they owe. According to the Canada Revenue Agency, most taxpayers will meet their tax obligations if given the proper tools and information.

Taxpayers’ ability to comply with tax legislation depends on their understanding of how the rules apply to their own circumstances.

When the intent of the legislation is not clearly conveyed by the words, taxpayers may find it difficult to assess the income taxes they owe and this could foster tax avoidance. Uncertainty about how the law should be applied can also add to the time taken and costs incurred by tax audits and tax administration.

### What we found

- No income tax technical bill has been passed since 2001. Although the government has said that an annual technical bill of routine housekeeping amendments to the Act is desirable, this has not happened. As a result, the Department of Finance Canada has a backlog of at least 400 technical amendments that have not been enacted, including 250 “comfort letters” dating back to 1998, recommending changes that have not been legislated.
- Department of Finance Canada staff are well-informed about the identified issues, but they do not make effective use of available electronic tools to record, track, and prioritize them for possible legislative amendment.
- The Agency’s processes for tracking and monitoring issues in the Act are not adequate. The Agency has no formal database to keep track of the identified legislative issues and their disposition. Issues are validated, and analysis of some of them is carried out. However, there is no systematic review of their impact on compliance or on the tax base. As part of the annual Budget process, the Agency selects a relatively small number of outstanding issues as priorities for communication to the Department, based on the assessment of senior Agency officials.
- The Agency provides guidance to taxpayers and tax practitioners in the form of advance income tax rulings, technical interpretations, Income Tax Interpretation Bulletins, as well as tax guides and pamphlets, to name a few. Tax practitioners we interviewed value the rulings process. However, in the past three years, the Agency has not met its timeliness standard for issuing advance income tax rulings. In addition, some of the information in the Agency’s Income Tax Interpretation Bulletins is no longer current and the public is not always made aware of that fact.

**The Agency and the Department have responded.** The Agency and the Department agree with all of our recommendations. Their detailed responses follow each recommendation throughout the chapter.

## Introduction

### The need for clarity in tax legislation

**3.1** The *Income Tax Act* is the central component of the federal income tax system, and it sets out the rules for compliance and provides for the administration of the Act. Other elements of this system include the *Income Tax Regulations*, tax treaties, and court decisions. For the system to work for both tax administrators and taxpayers, the Act's clarity must be maintained.

**3.2** Our system of income taxation depends on taxpayers self-assessing their tax obligations based on a clear understanding of the law. For many tax filers, the main guidance for self-assessment is the income tax form and tax guides that are prepared by the Canada Revenue Agency.

**3.3** When the intent of the statute is not clearly conveyed by its words, Canadians may not be able to easily self-assess or correctly calculate their taxes. Where necessary, tax administrators will offer additional guidance to Canadians on how tax law is interpreted and on how it is applied to their circumstances. Legislative drafters in the Department of Finance Canada may propose amendments to sections of the Act, for Parliament to approve, if lack of clarity compromises Canadians' ability to comply or the Act does not adequately reflect the underlying policy. These proposed amendments are first released to the public for comment and then tabled in Parliament in a technical bill or, occasionally, in a budget bill. These amendments may be relieving (resulting in less tax) or tightening (resulting in more tax).

**3.4** The Supreme Court of Canada has said that tax laws should be certain, predictable, and fair so that taxpayers can order their affairs intelligently.

**3.5** The application of tax provisions may become uncertain for a number of reasons. For example, a court decision may overturn an interpretation established by the Canada Revenue Agency. The Department may indicate the intent to propose legislative changes, but taxpayers will not know the exact nature of the proposed changes until they are enacted. Taxpayers may be uncertain when they file the current year's tax return, and they may have to choose between filing under the current legislation or the proposed legislation. New forms of business transactions may also challenge the application of the current provisions. Another type of uncertainty arises if a proposed amendment is not enacted for more than a year, but is to be passed

with retrospective effect (that is, only from the current date but affecting arrangements from before that date). Retrospective amendments can change the tax result and require a change in the tax assessment issued by the Canada Revenue Agency.

**3.6** For taxpayers, the negative effects of uncertainty may include

- higher costs of obtaining professional advice to comply with tax law;
- less efficiency in doing business transactions;
- inability of publicly traded corporations to use proposed tax changes in their financial reporting, because they have not been “substantively enacted”;
- greater cynicism about the fairness of the tax system; and
- increased willingness to use aggressive tax plans.

**3.7** For the tax administrator, the negative effects may include

- higher costs for providing additional guidance and interpretations to taxpayers and tax auditors; and
- higher administrative costs for reprocessing the tax returns after an outstanding legislative amendment is enacted and for obtaining waivers to extend the limitation period for reassessment.

The result may be uncertainty in the amount of tax revenues to be collected by the government and possible loss of tax revenues.

**3.8** If proposed technical changes are not tabled regularly, the volume of amendments becomes difficult for taxpayers, tax practitioners, and parliamentarians to absorb when they are grouped into a large package.

#### **The roles of the Agency and the Department in providing clarity in tax legislation**

**3.9 Canada Revenue Agency.** The Agency is responsible for administering the *Income Tax Act* and its regulations and related statutes, for collecting taxes, and for interpreting tax law. The Agency provides information to the Department of Finance Canada about compliance challenges and aims to make the Department aware of the need for technical amendments to the Act that it has identified. In order to give the correct legislative guidance, the Agency consults with the Department if the underlying policy intent of a provision needs to be better understood.

**3.10** The Agency provides advice and guidance on the interpretation and application of the *Income Tax Act* to taxpayers and its tax auditors, as follows:

- It gives general information in guides and pamphlets, instructions on tax forms, and guidance through its telephone service and website.
- It gives more specific guidance through a series of Income Tax Interpretation Bulletins and Information Circulars, and through a publication called Income Tax Technical News.
- It gives advance income tax rulings on the application of the law to specific transactions proposed by taxpayers, upon request, for a fee. The Agency regards these advance income tax rulings as binding. It also gives non-binding tax interpretations and opinions to taxpayers who request them and to tax auditors in the midst of an audit, if the auditor and the taxpayer do not agree on the interpretation of a provision in the Act.

**3.11 Department of Finance Canada.** The Department is responsible for developing and evaluating federal tax policy. It is responsible for drafting legislation that clearly reflects the tax policies set by the federal government. It also advises the Minister of Finance on the need for technical changes and policy changes to income tax legislation to ensure that Canada's tax system functions effectively. The Department of Finance Canada is also responsible for developing technical amendments to income tax legislation. Technical amendments are changes made to correct anomalies that arise after the original measure was passed and to correct consequences that were not intended. These amendments are not intended to introduce new tax policy or change existing tax policy.

**3.12** Although it is not required to do so, the Department also issues, upon request and where appropriate, **comfort letters** to taxpayers.

#### Focus of the audit

**3.13** The audit focused on activities within the Canada Revenue Agency and the Department of Finance Canada that identify and develop legislative amendments to correct technical deficiencies. It also focused on Agency activities that provide guidance to taxpayers and tax auditors on how to interpret and apply tax law. For purposes of this audit, we did not examine the process that seeks to bring about new policy changes through amendments to the Act or the more

**Comfort letters**—Letters in which the Department of Finance Canada promises to recommend to the Minister that a minor, non-policy legislative change be made; usually these changes are made to provide relief to the taxpayer when the tax result is clearly not the one intended by the law.

general guidance provided by the Agency, such as tax guides, pamphlets, phone service, and its website.

**3.14** We consulted 54 tax practitioners from across Canada who were referred to us by the Canadian Tax Foundation (an independent tax research organization) to find out

- how they use advance income tax rulings and income tax technical interpretations, issued by the Agency, and comfort letters, issued by the Department;
- how useful and timely they find the Agency's current legislative guidance; and
- what they see as the impact of technical legislative issues that have not been addressed.

**3.15** We interviewed tax auditors who use guidance on legislative interpretation and application from the Agency and headquarters staff who provide it to them. We reviewed management information, where available, on these activities that describe the level of service.

**3.16** We interviewed Agency officials who are responsible for identifying legislative issues and Department officials who are responsible for developing the technical amendments to address them. We reviewed their processes, inventories, and production levels. We also reviewed the process by which Department of Finance Canada provides comfort letters to taxpayers and then produces technical amendments. We have included five case studies to illustrate our observations. These appear throughout the chapter.

**3.17** More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### The Department's legislative maintenance

#### The Department's methods to record and track legislative issues are not integrated

**3.18** The Tax Legislation Division of the Department of Finance Canada receives information about technical issues in income tax legislation from the Canada Revenue Agency. It also receives comments and questions on tax laws from taxpayers; tax practitioners; tax groups, such as the Joint Committee of the Canadian Bar Association and The Canadian Institute of Chartered Accountants; and the Tax Executives Institute as well as from industry associations.

On average, the Division receives 125 written submissions a year, relating to many sections of the *Income Tax Act*.

**3.19** One of the functions of the Division (and of other divisions within the Tax Policy Branch, the Agency, and the Department of Justice Canada) is to analyze instances of the federal government losing a tax case. The Division's role is to develop technical changes necessary to more clearly convey the policy intent of the income tax legislation, as it relates to the topic that was before the courts.

**3.20** We examined whether the Department had a well-managed process in place to comprehensively record, track, and prioritize legislative issues, and whether it used this process to select issues for draft technical amendments. We found that Tax Legislation Division staff is well-informed about the issues, but the Department relies on basic, people-dependant processes. It does not use its available electronic tools effectively.

**3.21** The identified technical issues sent to the Department are recorded in several ways.

**3.22 Correspondence log.** The Tax Legislation Division maintains a log of incoming letters and tracks progress in their responses. Some of these letters point out legislative issues that will need to be dealt with by amendments. Our analysis of the log shows that 74 percent of the letters received between 2004 and 2008 remain open and incomplete. Department officials told us that most of the letters did not identify technical issues that required legislative changes.

**3.23 Electronic database.** In the early 1990s, the Department developed an electronic listing of possible legislative issues to replace paper versions. This electronic tool was intended to help set priorities, allocate resources, and help officers' understanding both of the issues involved and the reasons for amending the tax legislation. This electronic tool can provide a historical record and searchable database of all issues that the Department has identified. It can also help the Department rank the numerous issues by priority.

**3.24** Despite the important features of this electronic database and the fact that it was introduced more than 15 years ago, it is not being used consistently in the Tax Legislation Division. Since its inception, hundreds of possible technical issues have been entered into the database; however, only two items have been recorded in the last year. Division officers and chiefs maintain and rely primarily on their own individual parallel lists of legislative issues. Rather than using the electronic database to maintain an up-to-date and prioritized

inventory, the practice in the division is to manually consolidate the chiefs' lists with the officers' lists periodically. A partial consolidation in October 2008 identified 178 outstanding technical deficiencies from these lists.

**3.25 Comfort letters.** When the Department sends a comfort letter in response to a taxpayer request, it keeps a paper copy in a binder. Over the years, some of the issues identified in comfort letters have been entered into the electronic inventory. The inventory contains an incomplete electronic summary of these letters and their legislative issues.

**3.26** Department officials told us that they use their professional judgment to determine which legislative deficiencies should be a priority for the development of draft legislation. No formal criteria exist for identifying priority legislative amendments, but Department officials attach broad priority rankings (low, medium, high) to particular items as they arise. They consider issues raised in comfort letters to be high priority.

**3.27 Recommendation.** The Department of Finance Canada should use an integrated and consistent process for recording, tracking, and prioritizing all technical issues for possible legislative amendment.

**The Department's response.** Agreed. While systems are in place to manage and keep track of technical issues for possible legislative amendment, improvements can be made with regard to database management and usage. The Department will undertake, as resources permit, to consolidate its system for ensuring that technical issues are documented and catalogued consistently and that this system is maintained and kept up to date as new issues arise, and as existing issues are addressed.

#### **The last income tax technical bill was passed by Parliament in 2001**

**3.28** The concept of a tax bill that would be separate from the federal budget and would provide technical amendments to the *Income Tax Act* first arose in 1978, when the Canadian Tax Foundation set up a committee on the federal budget process. In 1982, the government adopted a committee recommendation to propose non-policy amendments in an annual technical bill. The government produced these technical bills for a number of years.

**3.29** In the 1991 Report of the Auditor General, Chapter 2, we expressed concerns that income tax comfort letters were given without public announcement. In response, the Department of Finance Canada stated that “the government intends to release a package of income tax technical amendments on an annual basis, so that taxpayers will not be subject to more lengthy waiting periods as in the past before amendments are released to the public.” While comfort letters have since been regularly released to the public, very few technical bills have been introduced or passed in recent years. In the last 18 years, only four such income tax bills have been enacted (Exhibit 3.1).

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**Exhibit 3.1 Only four income tax technical bills have been enacted since 1991**

Year the bill was introduced	Bill number	Date of Royal Assent
1992	Bill C-92/C-15	12 May 1994
1993	Bill C-27	15 June 1994
1995 to 1997	Bill C-28 (Div B)	18 June 1998
2001	Bill C-22 (Part 1)	14 June 2001

Source: OAG audit files

**3.30** The most recent package of technical amendments was released to the public on 20 December 2002. Between 2002 and 2006, more measures were added to the package. Some amendments, including those regarding foreign investment entities and non-resident trusts, were considered to be changes in policy. The technical portion of this bill consisted of 282 pages, with 155 clauses of amendments, to address legislative deficiencies dating back to 1996. The package was tabled as a bill in the House of Commons in November 2006, but it died when Parliament was prorogued in 2007, and an identical bill tabled in 2007 died when Parliament was dissolved in 2008 (Exhibit 3.2). As of the date of this audit, the technical amendments from this bill have not been reintroduced in the House of Commons. Two examples of the effects of a delay in technical amendments are in the two case studies that follow Exhibit 3.2.

**Exhibit 3.2 The one technical bill that was tabled in Parliament since 2001 has not been enacted**

Chronology of the Bill	
20 December 2002	Minister of Finance Canada released for consultation a package of technical amendments.
27 February 2004	Minister of Finance Canada released a revised package of technical amendments that included the December 2002 amendments and additional ones developed since 2002.
18 July 2005	Minister of Finance Canada released for consultation a revised package of technical amendments.
29 November 2006	A Notice of Ways and Means Motion to introduce a bill with the technical amendments was tabled in the House of Commons. The Bill also included rules regarding foreign investment entities and non-resident trusts. This became Bill C-33.
15 June 2007	Bill C-33 received third reading in the House of Commons.
14 September 2007	Parliament was prorogued; Bill C-33 died on the order paper.
29 October 2007	Bill C-10 was introduced in the House of Commons. It was identical to Bill C-33.
December 2007 to June 2008	The Senate Standing Committee on Banking, Trade and Commerce held several hearings to discuss Bill C-10.
7 September 2008	Parliament was dissolved; Bill C-10 died on the order paper.
As of the date of substantial completion of our audit, 24 June 2009, technical amendments from Bill C-10 had not been reintroduced.	

Sources: 1. For bills tabled prior to 29 January 2001, see Parliament of Canada House Bills website.  
 2. For bills tabled on or after 29 January 2001, see Parliament of Canada LEGISinfo website.

**Routine technical change**

This case study illustrates the key problem identified in this chapter: 14 years after the need for a non-controversial technical amendment was identified, it still has not been made.

Many professionals and small businesses operate as a partnership. Under existing rules in the *Income Tax Act*, when a partner leaves a partnership at any time other than at the start of the partnership's fiscal year, the timing for calculating income and recognizing capital gains does not match. This can lead to the exiting partner paying double tax.

Before 1995, the Agency was able to administer tax law so that no double tax would be paid. However, in 1995 the Agency had to change its way of interpreting the law because new rules came into force in the Act.

The Department of Finance Canada released draft legislation to correct this problem in 2002. The Canada Revenue Agency has been applying the draft legislation so that double taxation is avoided. However, the draft legislation originally tabled in Bill C-33 has not yet been passed (see Exhibit 3.2).

Source: OAG audit files

## Court case response—restrictive covenants

When a taxpayer sells a business, part of the selling price may be linked to an agreement by the seller to not compete with the business carried on by the buyer. This kind of agreement is called a non-compete agreement, or restrictive covenant. The common understanding of tax policy and its interpretation by the Canada Revenue Agency was that amounts received by a vendor in respect of a restrictive covenant on the sale of shares of a corporation were taxable. However, court decisions in 2000 and 2003 ruled that these amounts were generally not taxable.<sup>1</sup>

In response to the court decisions, the Minister of Finance issued a news release in 2003 announcing his intention to propose amendments to the *Income Tax Act* that would generally treat amounts received in this way as ordinary income for tax purposes (or in some important exceptions, as a capital gain). As with the case study on the routine technical change, proposed amendments were tabled in Parliament in bills C-33 and C-10, but have not been enacted.

Currently, taxpayers can report such amounts for tax purposes based on the court decisions or based on the draft legislation. If a taxpayer chooses to report based on the court decisions and the tax year becomes **statute-barred** before the new rules are enacted, the Agency would not be able to reassess the returns. This would result in a loss of tax revenue for the government.

Source: OAG audit files

### The Department has a backlog of necessary technical amendments

**3.31** The list of outstanding technical amendments to the *Income Tax Act* has been growing. In addition to the 155 clauses of technical amendments included in Bill C-10, we estimate that there are at least 250 technical amendments identified by the Department that have not yet been drafted or released for comment.

**3.32** The Department cannot fix this problem alone. However, in the past, it has released packages of proposed technical amendments to the public for comment. This practice informed taxpayers and tax practitioners about proposed changes even though they were only included in a bill some time later. By releasing draft amendments for comment, taxpayers are alerted to proposed changes and any concerns can be considered before the bill is introduced in the House of Commons. Over the past two years, apart from the draft legislation needed to implement technical changes identified in the previous budget, the Department has not released for comment any draft clarifying legislative proposals. Department of Finance Canada officials told us their practice was to release new draft proposals for comment only after the current technical bill had received royal assent.

**3.33** Department officials have also told us that undertaking the work to develop and draft technical amendments to remedy identified technical legislative deficiencies is not the Tax Legislation Division's

only priority. They indicated that their main priorities are giving policy advice to the Minister and developing annual budget implementation legislation.

**3.34** A recommendation concerning the current backlog of technical amendments appears at the end of this section.

#### **Priority issues in comfort letters are not being legislated on a timely basis**

**3.35** Comfort letters issued to taxpayers do not bind the government. A comfort letter clearly states that the Department will recommend to the Minister that an amendment be made, but the actual amendment to income tax law is a matter for Parliament. The topic of comfort letters was discussed during various hearings of the Senate Standing Committee on Banking, Trade and Commerce in 2007 and 2008 as part of Parliament's review of Bill C-10. During these hearings, the Senate was told that although comfort letters do provide clarity and a level of assurance to taxpayers and tax practitioners, they are not law and, therefore, still require an amendment to the *Income Tax Act*.

**3.36** During our interviews with tax practitioners across the country, we sought their views on the comfort letter process. Most of them were pleased that the letters were issued in a timely manner, and they thought that these letters were essential to facilitating economic activity and were an integral part of how Canada's tax system functions. However, the practitioners expressed a need for the legislative changes that the comfort letters identified to be enacted. Currently, the accounting rules for preparing a public corporation's financial statements require them to be based on tax legislation that has been substantively enacted. Consequently, the tax results of a comfort letter cannot be used in preparing audited financial statements.

**3.37** Between 1996 and 2008, the Department of Finance Canada issued 297 comfort letters. Only 46 of the issues dealt with in these comfort letters have become law. Some of these identified issues became amendments and were included in Bill C-10, which did not become law; other amendments have not yet been drafted. According to Department officials, legislation has not been developed or released for most comfort letters issued after 2002. Thus there are as many as 250 identified legislative deficiencies that require technical amendments from comfort letters alone.

**3.38** The following case study is an example of the uncertainty that taxpayers face when an income tax return has been filed based on a comfort letter.

The taxation of dividends was dealt with in a comfort letter but not passed into law

A corporation that pays dividends on certain preferred shares has to pay tax under Part VI.1 of the *Income Tax Act*, but it can claim a deduction from income to approximate this tax paid. Until a legislative change is made, the cost of financing a corporation's operations with preferred shares has increased. This is because a corporation will typically pay tax under Part VI.1 at a rate of 40 percent on the amount of dividends paid. It is then entitled to a deduction equal to three times the amount of Part VI.1 tax paid. When the combined federal and provincial corporate tax rate has been 33.33 percent, the tax saved from the deduction has equalled the Part VI.1 tax paid. Because the combined tax rate has been reduced in recent years, the tax saved from the deduction is no longer sufficient to offset the Part VI.1 tax paid. This would, if not corrected, result in increased financing costs that were not anticipated when the preferred shares were issued.

The Department of Finance Canada issued a comfort letter in 2002 stating that it would recommend that changes be made to the deduction. The changes were part of Bill C-33 and Bill C-10 (described in Exhibit 3.2) and remain outstanding some seven years later.

Source: OAG audit files

### Taxpayers are assessed based on comfort letters

**3.39** The Department issues about 30 comfort letters each year. These are released under Access to Information requests and published by private sector tax information services. Other taxpayers may use these comfort letters to calculate their tax liabilities. The Agency has no processes to identify and monitor the taxpayers who have carried out transactions based on comfort letters. This creates a risk that tax returns that have been completed based on a comfort letter may become statute-barred before the legislative change described in the comfort letter is enacted by Parliament. The Agency does not manage this risk by obtaining waivers from the taxpayers, which would allow it to later reassess the tax return based on the existing law, should the legislative change outlined in the comfort letter not be made. Although we are not aware of any situation when Parliament refused to enact a proposed change to the Act that had arisen from a comfort letter, we are concerned that taxpayers are assessed based on letters, the draft legislation for which may not be tabled and passed for years.

**3.40 Recommendation.** The Department of Finance Canada should

- develop and implement a plan to address the current backlog of necessary technical amendments; and
- regularly develop and release draft technical amendments, including those that arise from comfort letters, so that taxpayers and tax practitioners know what changes will be made and can provide input to the Department.

**The Department's response.** Agreed. Tax legislation is prepared by the Department and then tabled in Parliament by the Government. Recent practice with respect to legislative proposals to implement technical amendments (commonly known as tax “technical bills”) has been to await Parliament’s consideration and adoption of one technical bill before proceeding to release for public comment another package of proposed draft technical legislative amendments. This procedure has minimized potential confusion for taxpayers and their advisors (for example, by having different amendments to the same section of the *Income Tax Act* before Parliament and released in draft form for comment) and, in an environment in which draft technical bills have been considered and adopted by Parliament within a reasonably short period following their original release in draft form, has not resulted in any inordinate delay in the preparation and release of subsequent technical amendment packages.

Where proposed technical legislative amendments are not enacted within a reasonably short period following their original release in draft form, the Department recognizes that the current practice of seeking to defer the release of a new package of the draft technical amendments may raise different issues relating to taxpayer uncertainty. To reflect these competing factors, the Department agrees to consider whether there are circumstances where it would be appropriate to bring forward for consideration a subsequent draft technical amendments package, notwithstanding the fact that the previous technical bill had not yet been adopted by Parliament.

## The Agency's legislative maintenance input

### The Agency does not have a comprehensive system to track, record, and prioritize legislative issues

**3.41** We examined whether the Canada Revenue Agency maintains a complete list of legislative issues that it has identified as needing technical amendments, and whether it communicates these to the Department of Finance Canada. We found that the Agency uses several methods to identify technical issues, but it does not refer all issues to the Department and does not keep a consolidated inventory.

**3.42** The Agency’s Legislative Policy Directorate of the Legislative Policy and Regulatory Affairs Branch acts as the link between other branches of the Agency and the Department for identifying tax legislative issues. The Directorate receives information about legislative issues from Agency branches in several ways and communicates regularly with the Department. Occasionally, other areas of the Agency will contact the Department directly, but they need to inform the Directorate of any technical issues.

**3.43 Referrals from the Agency.** Various branches within the Agency identify legislative issues and communicate these to the Directorate. Staff in the Directorate ensure that the issues are valid and analyze some of them. They do not systematically review what impact these issues might have on compliance or on the tax base. The Directorate will communicate issues that it thinks need legislative amendments to the Department when they are identified; last year, it sent about 20 letters to the Department.

**3.44** The Directorate exchanges many emails with the various branches in connection to their ongoing discussions of legislative issues—about 26,000 in the past four years. It is difficult to assess how many technical issues are described in these emails as they are not catalogued by the Directorate.

**3.45 Agency input into the budget process.** Another approach that the Legislative Policy Directorate uses to gather and communicate details on important issues identified by Agency staff is to request a list of priority issues from the Agency's branches before the annual federal budget is developed. Although the budget generally deals with tax policy issues, occasionally a technical issue will be included in the budget. In advance of the 2008 Budget, the Directorate compiled a list of 47 suggestions for changes to the legislation from within the Agency. From these 47 suggestions, it sent 10 to the Department. Six of these ten issues were addressed in the 2008 budget; two of the six that were addressed were technical. The issues that the Agency forwards to the Department before the Budget is introduced are chosen based on an assessment and prioritization by senior Agency officials. The Agency's Policy Committee, chaired by the Assistant Commissioner of the Legislative Policy and Regulatory Affairs Branch, makes this assessment. Agency officials told us that they do not necessarily refer all technical issues that they think need to be addressed by a legislative amendment to the Department. Instead, they choose the ones that they think will fit the theme of the Budget. The same changes considered to be priorities may be referred to the Department year after year if necessary.

**3.46 Agency input to technical bills.** When the Directorate is informed by the Department that a technical bill is being prepared, it prepares a list of Agency priorities for legislative change to send to the Department. As there is no consolidated list of issues, the Directorate contacts various Agency branches to ask for their list of outstanding issues, and checks its own files. The current list of income tax legislative issues identified by the Compliance Programs Branch includes approximately 150 items. The lists of issues submitted to the

Department (for possible inclusion in a technical bill) in 2008 and in 2005 contained 108 and 54 items, respectively. The following case study is an example of an important technical issue that was identified by the Agency.

### Canada Revenue Agency identifies a potential legislative issue

This is an example of the Canada Revenue Agency identifying a potential legislative issue and communicating it to the Department of Finance Canada.

The *Income Tax Act* contains many provisions that are designed to ensure that a corporation's tax losses cannot be used by unaffiliated corporations unless certain conditions are met.

In recent years, some transactions have been designed to get around these rules, described as "tech-wreck" restructurings. The name arose from the use of losses originating in the technology sector.

The Agency's Legislative Policy Directorate wrote to the Department on 1 February 2001, following up on a request from the Income Tax Rulings Directorate about inappropriate use of losses.

The Agency's Legislative Policy Directorate wrote to the Department on 8 March 2004 regarding more recent inappropriate corporate reorganizations involving losses.

A meeting was held in August 2005 on the trading of non-capital losses and other losses. Staff from the Agency and the Department attended.

The Agency's Legislative Policy Directorate wrote to the Department again in 2007 on the same issues involving loss trading and informed the Department of another scheme that it believed was resulting in tax revenue losses. The Agency again asked the Department to recommend legislative amendments.

To date, the issue remains unresolved.

The Agency has stated in Income Tax Technical News #34 that it will apply the General Anti-Avoidance Rule to such transactions. Any resulting litigation will likely take several years before the uncertainty is resolved.

Source: OAG audit files

**3.47** Overall, technical issues identified within the Agency are not systematically tracked and monitored and they are not formally documented by managers. Directorate files on legislative issues are not electronic, and it does not keep a correspondence log related to these issues. At present, only seven staff in the Directorate deal with changes to income tax legislation, so without an electronic record, the loss of one or two senior people could have a major impact on how effectively the Agency identifies and communicates the accumulated technical issues to the Department.

**3.48 Recommendation.** The Canada Revenue Agency should create an electronic database to help validate, analyze, and prioritize identified technical issues that should be referred to the Department of Finance Canada and to track how they are addressed.

**The Agency's response.** Agreed. An electronic database is being developed and will be in place by the end of 2009. Further, a strategy is being developed to enhance the Agency's legislative recommendation process.

## The Agency's legislative guidance

### The Agency is not meeting its own time targets for advance income tax rulings for taxpayers

**3.49** The Canada Revenue Agency provides guidance to taxpayers to enable them to self-assess and comply with the law. Some of this guidance is more complex and is intended for users who need more detailed information. If the Agency's guidance is not timely or correct, taxpayers may inadvertently fail to comply with the law or they may become frustrated because the information they need is not available. Either may lead to a loss of tax revenue or an overpayment that later must be adjusted. We looked specifically at the guidance provided when the interpretation and application of the legislation may be unclear.

**3.50** The Income Tax Rulings Directorate is part of the Agency's Legislative Policy and Regulatory Affairs Branch. Its mandate is to interpret Canada's income tax law and explain how Canada's tax law applies to given situations. This includes providing advance income tax rulings for a fee and technical interpretations of income tax law to taxpayers (either directly or through tax auditors who are dealing with taxpayers). It produces Income Tax Interpretation Bulletins and the Income Tax Technical News, which describe the Agency's interpretation of income tax legislation. The Directorate also participates in tax conferences where it provides information about its interpretive positions. The tax practitioners we interviewed generally find the guidance provided by the Directorate to be helpful.

**3.51** An advance income tax ruling provides certainty to a taxpayer who receives it by guaranteeing the income tax effect of certain transactions the taxpayer plans to undertake. The rulings involve some of Canada's most complex tax issues and the tax revenue implications can be significant.

**3.52** Each ruling outlines how the Agency will interpret certain provisions of Canada's income tax law. These rulings are not published by the Agency but are released by the Agency under Access to Information provisions, with confidential details removed. The Agency's position on certain technical matters developed in a ruling may be of interest to other taxpayers. The rulings are available to those who subscribe to private sector tax information services.

**3.53** The Directorate also provides technical interpretations when asked to do so. These interpretations give guidance in a hypothetical situation and are also released under Access to Information provisions. The Agency provides about 250 advance income tax rulings and 1,200 technical interpretations to taxpayers and 1,000 technical interpretations to its auditors each year.

**3.54** We examined whether the Agency had well-managed processes in place to provide timely guidance to taxpayers on the interpretation and application of income tax provisions to enable them to self-assess and comply with the law.

**3.55** Generally, tax practitioners we interviewed told us that they value the Agency's advance income tax rulings service because it provides them with certainty about clients' proposed business transactions.

**3.56** They also told us that they find the response times from the Income Tax Rulings Directorate for advance tax rulings and technical interpretations to be slow. Some said that they no longer request technical interpretations and advance income tax rulings because they find that the response time is too long to enable them to meet their clients' needs.

**3.57** The Agency has met its service standard target of 90 days for income tax technical interpretations in five of the last six years. However, this standard is based on "controllable time," which includes only the time when the file is being worked on by the directorate or any other government department. This may explain the practitioners' perception of a lack of timeliness.

**3.58** The Agency has recognized in its Annual Report to Parliament that it has not met its own service standards for advance income tax rulings and acknowledged that this may result in taxpayers undertaking questionable transactions—potentially leading to reduced compliance and more costly audit and appeals activities (Exhibit 3.3).

**3.59** Agency officials and tax practitioners told us that one reason for the lack of timeliness is that the requested rulings are becoming more and more complex. Very few involve simple transactions that can be dealt with quickly; the Agency recognizes the tax risk associated with the proposed transactions. Moreover, 61 percent of the current staff in the Income Tax Rulings Directorate was not employed in 2004, so they are still gaining experience. The Agency's branch business plan recognizes the challenge, but does not have a concrete plan to improve

its performance in the short term. Management believes that the addition of 16 new staff in the past year, once they gain more experience, will help with timeliness.

**Exhibit 3.3 In recent years, the Canada Revenue Agency has not met its own targets for issuing advance income tax rulings**

Fiscal year	Advance income tax rulings Target is 60 days (of time within the government's control)		Income tax technical interpretations Target is 90 days (of time within the government's control)	
	Average number of days to issue to taxpayers	Rating standard: Met or Not Met	Average number of days to issue to taxpayers	Rating standard: Met or Not Met
2002–03	60 days	Met	78 days	Met
2003–04	57 days	Met	82 days	Met
2004–05	62 days	Met	75 days	Met
2005–06	84 days	Not Met	87 days	Met
2006–07	94 days	Not Met	105 days	Not Met
2007–08	101 days	Not Met	89 days	Met

Source: Canada Revenue Agency's Annual Report to Parliament 2007–08, and prior years

**3.60 Recommendation.** The Canada Revenue Agency should develop more concrete plans to meet its own target times for issuing advance income tax rulings, given the significance of the rulings to proposed business transactions.

**The Agency's response.** Agreed. The Agency will formally evaluate these performance standards to ensure they adequately reflect the time needed for issuing advance rulings, given the increased complexity of these cases. This study of turnaround times and trends will be completed in 2010.

**It is not known whether the guidance provided to tax auditors is timely**

**3.61** We examined whether the Agency had a well-managed process in place to provide timely guidance to Agency auditors across the country on the interpretation and application of income tax law. We found established processes to provide the guidance needed, but management does not have any reliable information on whether or not it is timely.

**3.62** The Agency has established an internal, 60-day standard for responses to queries from auditors of small and medium businesses, although there is no standard response time established for queries from large corporations. However, the Agency does not record or track the actual response time to any of these queries. As a result, the Agency does not know whether the guidance it provides to its own auditors is timely.

**Users are not always aware that some Income Tax Interpretation Bulletins are obsolete**

**3.63** Income Tax Interpretation Bulletins are produced by the Income Tax Rulings Directorate. They provide the Agency's technical interpretation and position on certain provisions of income tax law. For the majority of taxpayers, the explanations of income tax law available in the Agency's other publications, such as tax guides and pamphlets, are sufficient.

**3.64** The Income Tax Technical News is also produced by the Income Tax Rulings Directorate and gives the Agency's technical interpretation of various provisions of income tax law and informs users of a new or revised position. The Income Tax Technical News began in 1994 and, to date, 40 issues have been published.

**3.65** Information Circulars provide information to the general public on administrative, enforcement, or procedural matters that relate to income tax law.

**3.66** Most tax auditors and many tax practitioners told us that they begin their research into a legislative interpretation question with Income Tax Interpretation Bulletins as their source of guidance. As of 31 December 2008, there were 272 bulletins in effect. Tax auditors and tax practitioners have told us that, although they are aware that some of the guidance in the bulletins may not be up to date, they continue to rely on them to support their positions when they are uncertain about how to interpret income tax law. Agency statistics indicate the importance of the bulletins, using as evidence the 1.5 million page views of the bulletins on its website for the fiscal year ended 31 March 2009. These views were from users external to the Agency and do not include Agency staff. Users may also access the bulletins through their subscription to private sector tax information services.

**3.67** Although the Income Tax Rulings Directorate's Policies and Procedures Manual contains a clear process for developing and producing an Income Tax Interpretation Bulletin, we found that there is no formal process to monitor whether it is still current or to decide

whether it needs to be withdrawn or revised. Since 2003, only 29 of the existing bulletins have been revised and only one new one was issued. The Agency told us that the production and revision of bulletins is not a priority, in part due to resource constraints.

**3.68** We expected that if all or part of an Income Tax Interpretation Bulletin was no longer correct, the Agency would communicate this to users by updating the bulletin. We found that there is no indication in the bulletin itself that specific paragraphs may no longer be current; there is only the general comment in the index listing of all bulletins that the information in certain ones may not be up to date. The Agency does provide information about new interpretive positions in its Income Tax Technical News publication. However, this approach requires a user to know that a specific bulletin may be out of date and to read all issues of Income Tax Technical News to see if anything has been said about the one they plan to rely on. The Agency may issue a special release of the bulletin to communicate changes. However, the user may be required to do further research, such as looking at changes to the legislation, conference presentations, current articles, and recent court cases to establish the correct interpretive position. The following case study is an example of the effect of an out-of-date bulletin.

#### Example of an Interpretation Bulletin that is out-of-date

A scholarship, fellowship, bursary, prize, research grant, and other kind of financial assistance for scholars is included in income in the year received, subject to a “scholarship exemption.” The scholarship exemption may result in a full deduction from income, resulting in no tax owing. The Agency issued Income Tax Interpretation Bulletin IT-75R4 on 18 June 2003. This IT discusses the taxation of the scholarships and similar prizes. It indicates the scholarship exemption exempts the first \$500 and in some cases the exemption is \$3,000.

In fact, the scholarship exemption changed for taxation years after 2005. The full amount may qualify for the exemption, and therefore not be subject to tax. IT-75R4 does not reflect the legislative change and can mislead a user into reporting the wrong amount on the tax return.

Source: OAG audit files

**3.69 Recommendation.** The Canada Revenue Agency should improve the information it provides to users about specific paragraphs in Income Tax Interpretation Bulletins that are no longer accurate, so that they can more readily comply with the *Income Tax Act*.

**The Agency's response.** Agreed. The Agency provides taxpayers and tax practitioners with up-to-date technical information such as pamphlets, guides, tax return packages, technical opinions and conference responses. Given that there are several other mediums that

provide this type of technical information, the Agency may opt to cancel its inventory of Interpretation Bulletins. To that end, the Agency will evaluate this option during 2010 and ensure practitioners are consulted and aware of any subsequent plan of action to either update these bulletins or cancel them.

## Conclusion

**3.70** Some aspects of maintaining the clarity of the *Income Tax Act* are not being well managed, which creates difficulties for taxpayers and administrative complications for the Canada Revenue Agency. Although the government has agreed a number of times to introduce annual technical bills to correct identified deficiencies, it has not done so. The last technical bill on income tax law received royal assent in 2001. Each year, more deficiencies are identified, contributing to an ever-growing backlog of needed technical amendments.

**3.71** The Department of Finance Canada alone cannot correct this situation, but it can do more to bring the urgency of the problem to the attention of the government and Parliament and make known, by releasing draft amendments for stakeholder comment, how the important technical deficiencies will be remedied.

**3.72** Although the Agency does collect information from its own operations about technical issues in tax legislation, it records them in various ways, does little to analyze their impact, and does not communicate all of the identified issues requiring amendments to the Department of Finance Canada. The Department has weaknesses in its own process for recording and monitoring legislative issues.

**3.73** The Agency's guidance to taxpayers and its own tax auditors, through advance income tax rulings and technical interpretations, has well-managed aspects, but the advance income tax rulings are not being provided in a timely manner. Income Tax Interpretation Bulletins are frequently referred to by taxpayers and tax practitioners, but are not being kept up to date. Revising these bulletins is not a priority for the Agency, and the public is not always made aware of the fact that a bulletin may be obsolete.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The objective of the audit was to determine whether

- the Canada Revenue Agency has well-managed processes in place to help taxpayers comply with the *Income Tax Act*, by providing timely guidance to clarify the interpretation and application of the legislation; and
- the Agency and the Department of Finance Canada have well-managed processes in place to identify and develop technical amendments to the income tax legislation considered necessary to more clearly reflect the policy intent, to facilitate compliance, and to protect the tax base.

### Scope and approach

Our audit focused on two areas of administration of the *Income Tax Act*: the activities that respond to compliance problems related to taxpayer uncertainty arising from the application and interpretation of the income tax legislation and the processes in place to develop the necessary technical legislative changes in a timely manner. We focused our work in specific sectors of the Agency and the Department, with our main focus being directed at the Agency's Legislative Policy and Regulatory Affairs Branch and the Department's Tax Policy Branch.

During our audit, we interviewed tax services office auditors and reviewed documents they gave us. We then interviewed headquarters staff to understand how the Agency ensures that it is providing tax auditors and taxpayers with consistent guidance on how to apply and interpret tax legislation.

We interviewed 54 tax practitioners from across the country. Each was asked a series of questions developed by the audit team. The tax practitioners were referred to us by the Canadian Tax Foundation and reflected a target population of senior tax practitioners (both accountants and lawyers) with practices in larger Canadian cities and with client bases composed of both large and small clients. We wanted to hear the views of a target population that would be most likely to use the services of both the Canada Revenue Agency and the Department of Finance Canada in the course of their work. We conducted these interviews over a 19-month period in Vancouver, Calgary, Toronto, and Montreal.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that the Canada Revenue Agency had well-managed processes in place to provide timely guidance to Agency officials and taxpayers on the interpretation and application of income tax provisions through advance income tax rulings, technical interpretations, information circulars, income tax interpretation bulletins, and the Income Tax Technical News.	<ul style="list-style-type: none"> <li>• Canada Revenue Agency, 2008–09 to 2010–11 Legislative Policy and Regulatory Affairs Branch Business Plan, pages 7, 13, 14, and 36</li> <li>• Canada Revenue Agency, 2008–09 Report on Plans and Priorities, Appendix C, page C-2</li> </ul>
We expected that the Department of Finance Canada had well-managed processes in place to identify, analyze, prioritize, and draft technical amendments to ensure the effective functioning of Canada's tax system.	<ul style="list-style-type: none"> <li>• Department of Finance Canada, 2007–08 Report on Plans and Priorities, page 18</li> </ul>
We expected that the Agency had well-managed processes in place to monitor taxpayers who have been assessed based on comfort letters.	<ul style="list-style-type: none"> <li>• Canada Revenue Agency, 2006–07 Annual Report to Parliament, page 9</li> </ul>
We expected that the Agency had well-managed processes in place to identify, analyze, and prioritize amendments needed to address the lack of clarity in the <i>Income Tax Act</i> and to communicate these to the Department of Finance Canada in a timely manner.	<ul style="list-style-type: none"> <li>• Treasury Board of Canada Secretariat, Risk Management Policy, Preface,</li> <li>• Canada Revenue Agency, 2008–09 to 2010–11 Legislative Policy and Regulatory Affairs Branch Business Plan, page 7</li> <li>• Canada Revenue Agency, 2006–07 Report on Plans and Priorities, page 45</li> </ul>

Management reviewed and accepted the suitability of the criteria used in the audit.

## Period covered by the audit

The period under audit is from 2004 to 2009. Other historical documents reviewed were pertinent to the time period under audit and were published as far back as 1973.

Audit work for this chapter was substantially completed on 24 June 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 3. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p><b>The Department's legislative maintenance</b></p>	
<p><b>3.27</b> The Department of Finance Canada should use an integrated and consistent process for recording, tracking, and prioritizing all technical issues for possible legislative amendment. (3.18–3.26)</p>	<p>Agreed. While systems are in place to manage and keep track of technical issues for possible legislative amendment, improvements can be made with regard to database management and usage. The Department will undertake, as resources permit, to consolidate its system for ensuring that technical issues are documented and catalogued consistently and that this system is maintained and kept up to date as new issues arise, and as existing issues are addressed.</p>
<p><b>3.40</b> The Department of Finance Canada should</p> <ul style="list-style-type: none"> <li>• develop and implement a plan to address the current backlog of necessary technical amendments; and</li> <li>• regularly develop and release draft technical amendments, including those that arise from comfort letters, so that taxpayers and tax practitioners know what changes will be made and can provide input to the Department. (3.28–3.39)</li> </ul>	<p>Agreed. Tax legislation is prepared by the Department and then tabled in Parliament by the Government. Recent practice with respect to legislative proposals to implement technical amendments (commonly known as tax “technical bills”) has been to await Parliament’s consideration and adoption of one technical bill before proceeding to release for public comment another package of proposed draft technical legislative amendments. This procedure has minimized potential confusion for taxpayers and their advisors (for example, by having different amendments to the same section of the Income Tax Act before Parliament and released in draft form for comment) and, in an environment in which draft technical bills have been considered and adopted by Parliament within a reasonably short period following their original release in draft form, has not resulted in any inordinate delay in the preparation and release of subsequent technical amendment packages.</p>
	<p>Where proposed technical legislative amendments are not enacted within a reasonably short period following their original release in draft form, the Department recognizes that the current practice of seeking to defer the release of a new package of the draft technical amendments may raise different issues relating to taxpayer uncertainty. To reflect these competing factors, the Department agrees to consider whether there are circumstances where it would be appropriate to bring forward for consideration a subsequent draft technical amendments package, notwithstanding the fact that the previous technical bill had not yet been adopted by Parliament.</p>

## Recommendation

## Response

## The Agency's legislative maintenance input

**3.48** The Canada Revenue Agency should create an electronic database to help validate, analyze, and prioritize identified technical issues that should be referred to the Department of Finance Canada and to track how they are addressed. (3.41–3.47)

Agreed. An electronic database is being developed and will be in place by the end of 2009. Further, a strategy is being developed to enhance the Agency's legislative recommendation process.

## The Agency's legislative guidance

**3.60** The Canada Revenue Agency should develop more concrete plans to meet its own target times for issuing advance income tax rulings, given the significance of the rulings to proposed business transactions. (3.49–3.59)

Agreed. The Agency will formally evaluate these performance standards to ensure they adequately reflect the time needed for issuing advance rulings, given the increased complexity of these cases. This study of turnaround times and trends will be completed in 2010.

**3.69** The Canada Revenue Agency should improve the information it provides to users about specific paragraphs in Income Tax Interpretation Bulletins that are no longer accurate, so that they can more readily comply with the *Income Tax Act*. (3.61–3.68)

Agreed. The Agency provides taxpayers and tax practitioners with up-to-date technical information such as pamphlets, guides, tax return packages, technical opinions and conference responses. Given that there are several other mediums that provide this type of technical information, the Agency may opt to cancel its inventory of Interpretation Bulletins. To that end, the Agency will evaluate this option during 2010 and ensure practitioners are consulted and aware of any subsequent plan of action to either update these bulletins or cancel them.

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Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises *Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters*. The main table of contents for the Report is found at the end of this publication.

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Chapter

# 4

Electronic Health Records





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# Electronic Health Records

## Main Points

### What we examined

Canada Health Infoway Inc. (Infoway) was created in 2001 as a federally funded, not-for-profit corporation to lead the national development of electronic health records (EHRs). Infoway's goal is to ensure that, by 2010, every province and territory and the populations they serve will benefit from new health information systems that will help transform their health care system. Furthermore, Infoway's stated goal is that 50 percent of Canadians will have their electronic health record available to their authorized health care professionals by 2010, and 100 percent by 2016.

Health Canada transfers funds to Infoway based on funding agreements that specify the obligations of each party. Infoway has been granted \$1.6 billion by the federal government. Infoway has allocated \$1.2 billion to invest jointly with the provinces and territories in projects to accelerate the development and use of compatible EHRs across Canada, and \$400 million for other related priorities. It is the role of the provinces and territories to propose the projects to Infoway for funding and to implement them. Thus, Infoway's ability to achieve key outcomes in its funding agreements depends on the collaboration of the provinces and territories.

We examined how Infoway manages funds from the federal government to achieve its goal of making compatible electronic health records available across Canada. In addition, we looked at the role of Health Canada, the sponsoring department, in ensuring that Infoway complies with the agreements under which it receives funding from the Department. For the most part, the audit focused on the fiscal years 2006–07 and 2007–08. Audit work for this chapter was substantially completed on 30 April 2009.

Concurrent with our audit, six provincial audit offices audited how electronic health records funded by Infoway and/or provincial governments are being implemented in their respective provinces. The provincial audit offices will each report separately; a joint summary report on all of the audits will be issued in 2010.

## Why it's important

Electronic health records (EHRs) are intended to offer solutions to a number of persistent problems in Canada's health system, some of which can be attributed to the use of paper-based health records. With EHRs, it is expected that health care professionals would be better able to share patient information, thus avoiding unnecessary or duplicate diagnostic tests, multiple prescriptions, and the risk of adverse drug reactions. Ultimately, the use of EHRs could reduce patient wait times, reduce costs, and save lives. From its inception in 2001 until 31 March 2009, Infoway had spent \$614.9 million on this initiative, and had committed an additional \$614.2 million, for a total of \$1.2 billion. Some experts have estimated the total cost of implementing EHRs Canada-wide at over \$10 billion, and Infoway concurs.

## What we found

- Infoway has accomplished much in the eight years since its creation. Using the funding agreements with Health Canada as a starting point, Infoway developed an approach to providing for compatible electronic health records by identifying the key requirements and components of an EHR and developing a blueprint for the design of health information systems. It consulted widely with partners and stakeholders to obtain their input and support. In addition, it established appropriate governance mechanisms and developed a risk management strategy. It has implemented appropriate management controls for operational spending, although controls for contracting for goods and services need to be strengthened.
- In the 29 EHR projects we examined, Infoway had ensured that provinces and territories designed the projects to comply with requirements such as its blueprint and standards. It had also identified project-specific risks and was monitoring them, as well as other problems that arose during the life of the project. However, Infoway has not obtained the results of conformance testing on EHR systems. This means it does not have sufficient assurance that standards have been implemented as required.
- Infoway has made considerable efforts to report on the progress of the EHR initiative. It reports progress toward its 2010 goal as the percentage of Canadians living in provinces or territories where an EHR is available to their health care professionals. However, it has not reported on other indicators of progress, such as the extent to which completed systems meet requirements for compatibility. Nor does it report on the adoption or use of completed systems by health care professionals, although it considers low adoption rates a serious risk to the EHR initiative.

- As the sponsoring department, Health Canada periodically obtains assurance through audits and evaluations that Infoway is complying with the funding agreements. However, at the time of the audit, the Department still had not fully developed the monitoring framework it approved in 2008 to manage risks associated with such large amounts of funding and to strengthen ongoing monitoring of the Corporation.

**The entities have responded.** The entities agree with all of our recommendations. Their detailed responses follow the recommendations throughout the chapter.



## Introduction

**4.1** Each year in Canada, hundreds of millions of health care-related transactions occur. Almost all involve handwritten records. This critical information is filed in doctors' offices and clinics, and in nearly 1,000 hospitals. In September 2000, the first ministers unanimously agreed "to work together to strengthen a Canada-wide health infostructure to improve quality, access and timeliness of health care for Canadians" and committed to developing electronic health records.

**4.2** To meet this commitment, Canada Health Infoway Inc. (Infoway) was created in 2001 as a not-for-profit corporation at arm's-length from the government. It works with the provinces and territories to foster and accelerate the development and adoption of electronic health records across Canada.

### Definition of an electronic health record

**4.3** An electronic health record (EHR) is a secure and private lifetime record that describes a person's health history and care. Such a record would be available electronically to authorized health care professionals anywhere and anytime to support the provision of high-quality care.

**4.4** The terms electronic health record and electronic medical record (EMR) are often interchanged. However, in the context of this audit, they must be clearly distinguished. An EHR refers to a person's health record that can be accessed online from many separate, compatible systems within a network. An EMR refers to an electronic patient record that can be accessed from a single system in a doctor's office and that may, or may not, be shared with other health care professionals.

**4.5** An EHR that is fully functional will allow health care professionals to view and update a patient's health record. The EHR would include a person's

- age, address, and other personal details;
- diagnostic imaging, drug, laboratory, hospital, and clinical reports;
- infectious disease and immunization records; and
- other health information.

**4.6** To implement an EHR, Infoway has determined that the core systems described in Exhibit 4.1 must be in place.

**Exhibit 4.1** Systems that support an electronic health record, including expenditures and commitments as of 31 March 2009

Name of system	Expenditures (\$ millions)	Commitments (\$ millions)	Total (\$ millions)
<b>Registries</b>  Client Registry—A list of all patients and their relevant personal information, such as names and addresses.  Provider Registry—A list of participating health care professionals who are authorized to use the system.  When completed by all jurisdictions, these registries will uniquely identify all Canadians and their doctors.	100.0	32.2	132.2
<b>Diagnostic Imaging System (DI)</b>  A system that electronically collects, stores, manages, distributes, and displays a patient's images and reports, such as X-rays, ultrasounds, MRIs, and CT scans. All this information would exist in digital format, without the need for film.	217.1	118.5	335.6
<b>Drug Information System (DIS)</b>  A system that allows health care professionals to access, manage, share, and safeguard a patient's medication history. For each new prescription, the system will check for allergy alerts and drug-to-drug interactions against a complete medication profile.	101.4	140.1	241.5
<b>Laboratory Information System (LIS)</b>  No matter where a patient is tested, this system will allow laboratory technicians to enter results into a database. Test results will be linked to the patient's EHR and will give health care professionals more information to aid in diagnosing and treating patients.	71.8	92.5	164.3
<b>Interoperable Electronic Health Record (iEHR)</b>  This system will allow authorized health care professionals to view and, in some cases, to update a patient's essential health information.  Interoperable refers to a system that has the ability to work with other systems or products. If they weren't part of an interoperable electronic health record (iEHR), the registries, diagnostic imaging, drug information, and laboratory information systems would be unable to send or receive information from health care professionals.	124.6	230.9	355.5
<b>Total</b>	<b>614.9</b>	<b>614.2</b>	<b>1,229.1</b>

Source: Adapted from Infoway information

**4.7** In creating EHRs, thousands of systems will need to be integrated. As a result, the implementation of an EHR system is an expensive, long-term initiative. Since its creation in 2001 until 31 March 2009, Infoway had spent \$614.9 million on various EHR projects from the systems described in Exhibit 4.1 and had committed an additional \$614.2 million, for a total of \$1.2 billion. Some experts have estimated the total cost of implementing EHRs in Canada to be more than \$10 billion. Infoway concurs with this estimate.

**4.8** The development and implementation of EHRs is no simple matter. Canada's health care system is huge. Millions of encounters between patients and health care professionals occur each day. According to Infoway, about 2,000 health care transactions happen per minute in Canada. Many are quite complex and all involve documentation and information flow. Each year there are

- 440 million laboratory tests performed,
- 382 million prescriptions filled,
- 322 million visits to doctors' offices,
- 35 million diagnostic images taken, and
- 2.8 million hospitalizations.

**4.9** Electronic health records are intended to provide solutions to a number of persistent problems in Canada's health system, some of which may be caused by the use of paper-based health records. Records in electronic form are more likely to be legible, available when needed, and more easily and quickly retrieved and made available. Other potential benefits include the following:

- For patients—improved health care and decreased risks (such as fewer adverse drug reactions); lower chance of having duplicate, invasive, or expensive tests; and shorter waiting lists.
- For health care professionals—an integrated view of patient data and the ability to make better decisions, thanks to up-to-date patient information.
- For health administrators—reduced health care costs and improved health care quality.
- For governments—support for improved long-term planning and improved health resource allocation.

In short, EHRs are expected to reduce costs, improve quality of care, and help save lives.

### **Canada's model for shared responsibility**

**4.10** **Infoway.** Infoway describes its role as that of a “strategic investor” that makes focused investments to spur the development of EHRs across the country. It works with the provinces and territories, which are responsible for delivering health care, in setting a national direction, and it helps to ensure that provincial and territorial strategies are aligned with national priorities.

**4.11** Infoway funds projects with its provincial and territorial partners, paying 75 percent of eligible costs. It also participates in project planning, and monitors the progress of projects and the quality of deliverables by using a “gated funding model.” Provinces and territories are reimbursed only when specific milestones, or “gates,” have been achieved. Provinces and territories usually receive 20 percent of project funding when a legal agreement for a project is signed and 30 percent of funding after Infoway has approved various project deliverables, such as project charters and system design documents.

**4.12** The most significant gate in Infoway’s funding approach is the “adoption gate,” which requires provinces and territories to show that certain core systems of an EHR have been adopted by health care professionals. Adoption criteria, which are the expected use of a core system by targeted health care professionals, are established for each project, such as a diagnostic imaging, laboratory, or drug information system. For example, adoption occurs when a hospital certifies that it no longer uses film for diagnostic imaging. When adoption criteria are achieved, Infoway reimburses the final 50 percent of the project’s approved budget. Linking 50 percent of project funding to the adoption of a core system provides some assurance to Infoway that EHR systems are beginning to be used, but it provides no assurance of widespread or ongoing use.

**4.13** Although each province and territory will have an EHR system adapted to its needs, it is important that provincial and territorial systems are based on an agreed set of principles and characteristics. To this end, Infoway collaborated with its partners on a design of health information systems for EHRs, called the Electronic Health Record Solution (EHRS) Blueprint (the Blueprint). Released by Infoway in 2003, the Blueprint provided a vision of how EHR information could be securely and appropriately shared across Canada using information and communications technologies. Revised in 2006, the Blueprint now provides more detail on how standards can support the sharing of health information and comply with federal, provincial, and territorial requirements, as well as privacy and security requirements across jurisdictions. Infoway believes that provincial and territorial alignment with the Blueprint and compliance with standards are essential to achieving EHRs that are compatible across the country.

**4.14** Infoway has also guided the development of standards through the **Standards Collaborative**. The Collaborative has developed standards for each core system of an EHR. This was done by consulting health care professionals, software vendors, and representatives from the provinces and territories. Standards for the registries, diagnostic

**Standards Collaborative**—A body created in 2006 after extensive consultation with and approval by the boards of Infoway and the Canadian Institute for Health Information (CIHI), as well as the federal, provincial, and territorial Conference of Deputy Ministers of Health. Its mandate is to develop, maintain, and support the implementation of national standards. The Collaborative also plays a formal liaison role with organizations developing international standards.

imaging, and drug information systems have been ready to use since 2006. Standards for laboratory information systems and interoperable EHRs have been available since 2007.

**4.15** Although Infoway takes steps to ensure that projects align with the privacy and security requirements outlined in the Blueprint, it has no responsibility for ensuring that systems comply with any privacy laws.

**4.16 Provinces and territories.** The provinces and territories are responsible for developing their own EHR strategies and ensuring that they align with the Blueprint. Projects proposed by the provinces and territories and approved by Infoway are cost-shared, with Infoway paying 75 percent of eligible costs. Provinces and territories are responsible for implementing the projects and, because the total amount of funding to be provided by Infoway is capped when projects are approved, the provinces and territories assume all the risk of cost overruns.

**4.17** The provinces and territories are responsible for the operating and maintenance costs of EHR systems. They also provide funds to regional health authorities and hospitals to cover other EHR initiatives not eligible for Infoway funding. The provinces and territories are responsible for ensuring that the implemented EHR systems comply with their own privacy laws.

**4.18** The provinces and territories are also responsible for helping doctors, nurses, pharmacists, and other health care professionals understand and use EHRs. This is critical in private offices or clinics, where few have shifted from paper-based patient records to electronic records. The success of implementing EHRs depends on the willingness of health care professionals to use the systems, and it is the responsibility of the provinces or territories to directly inform and gain support from them.

**4.19 Health Canada.** Health Canada is the federal department that sponsors Infoway. It negotiated the funding agreements and prepared the related Treasury Board submissions. As the federal signatory to the agreements, Health Canada's role is to ensure compliance with the funding agreements' provisions. The Minister must account to Parliament for the effective ongoing administration of the agreements and the reporting of plans and results.

## How Canada Health Infoway is funded

**4.20** The federal government has granted a total of \$1.6 billion to Infoway in a series of funding agreements (Exhibit 4.2).

**Exhibit 4.2 Funds provided to Infoway by the federal government**

Year	Amount (\$ millions)	Purpose
2001	500	Provide support for electronic health records (EHRs) and Telehealth
2003	600	Provide additional support for EHRs and Telehealth
2004	100	Provide support for public health surveillance
2007	400	Continue work on EHRs and related priorities (such as wait times support)

Source: *The Canada Health Care, Early Childhood Development and Other Social Services Funding Act, 2000, and Budget Implementation Act, 2003, 2004, and 2007*.

**4.21** As Exhibit 4.1 shows, Infoway had spent about \$614.9 million and committed just over \$614.2 million in funding in support of EHRs as of March 2009. Infoway has also expended \$212.4 million and committed another \$134.7 million for other programs such as Patient Access to Quality Care, Public Health Surveillance, and Telehealth. The *Budget Implementation Act, 2009*, authorizes the payment of \$500 million to Infoway for the implementation of EHRs. Some of the funds would go toward implementing EMR systems for doctors and connecting patients and points of service such as hospitals, community care facilities, and pharmacies. However, there is no funding agreement yet for this amount.

## Focus of the audit

**4.22** Our audit focused on whether Infoway is exercising due regard in managing funds from the federal government to achieve its goal related to implementation of EHRs that will be compatible across Canada, and whether Health Canada is ensuring that Infoway is complying with the funding agreements. We examined funding of projects in the five core systems that make up an EHR: registries, diagnostic imaging systems, drug information systems, laboratory information systems, and interoperable electronic health records (iEHRs).

**4.23** We also examined the governance structure, selected management controls (executive compensation, executive travel and

hospitality, and contracting for goods and services), and the appropriateness of Health Canada's accountability arrangements under the various funding agreements. For the most part, our audit covered the 2006–07 and 2007–08 fiscal years. In some instances, such as the review of funded projects, we went back further.

**4.24** We did not audit other systems, such as Infrastructure, Innovation and Adoption; Patient Access to Quality Care; Public Health Surveillance; and Telehealth because they are not among the five core systems of an EHR listed in Exhibit 4.1.

**4.25** More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### Setting the direction

**4.26** Infoway's funding agreements call for the Corporation to provide effective management and stewardship of the \$1.6 billion allocated to it since 2001. We examined the governance mechanisms that allow Infoway to carry out its mandate and objectives. We expected Infoway to have clearly defined roles and responsibilities for the parties within the governance structure, and to have an independent Board of Directors that uses appropriate practices in exercising its stewardship role.

### Appropriate governance mechanisms are in place

**4.27** We reviewed documentation related to the governance structure, including the Board of Directors' Charter, the terms of reference for the Board's committees, and the Board and Committee minutes and packages since March 2006. As well, we interviewed the Chair and the Vice-Chair of the Board, and two other directors. We found that the roles and responsibilities are clearly defined (Exhibit 4.3).

**4.28** The Board's role is to provide independent judgment on a broad range of issues. It is responsible for, among other things, ensuring that the Corporation operates in a manner that preserves its financial integrity and in accordance with the by-laws, funding agreements, applicable laws, and policies approved by the Board. Board members are required to comply with all corporate policies, including the Code of Business Conduct and the Conflict of Interest Policy. In line with this, directors sign forms each year in which they attest to their independence. Directors we interviewed informed us that those who

**Exhibit 4.3 Roles of parties in Infoway's governance**

Party	Role
<b>Members</b> Federal, provincial, and territorial deputy ministers of health	<ul style="list-style-type: none"> <li>Appoint external auditors and review financial statements</li> <li>Appoint seven directors to the Board, who may but need not be government employees</li> <li>Elect six directors at large, who shall not be government employees</li> </ul>
<b>Board of Directors</b> Two federal appointees Five provincial or territorial appointees Six elected directors at large	<ul style="list-style-type: none"> <li>Reviews and approves, as need be, the organizational structure, strategic planning processes, risk management, and corporate policies</li> <li>Oversees finance and audits</li> <li>Provides advice and counsel to management on critical or sensitive issues</li> <li>Appoints the President and Chief Executive Officer (CEO) and approves his or her compensation</li> <li>Approves funding of projects over a monetary threshold and oversees the quality and integrity of projects funded</li> </ul>
<b>Board Committees</b> Governance Committee Finance, Investment, and Audit Committee Compensation and Human Resources Committee	<ul style="list-style-type: none"> <li>Assists the Board in fulfilling its obligations by providing a focus on corporate governance, with a view to enhancing the Board's performance</li> <li>Assists the Board in fulfilling its oversight of the financial affairs of the Corporation, investment of the financial assets, effective internal controls and financial reporting, audits and risk management functions, public accountability, and corporate compliance with laws and regulations and the Code of Business Conduct</li> <li>Serves as an advisory committee and assists the Board in discharging its responsibilities that relate to compensation, organization structure, and executive staffing</li> </ul>
<b>Officers and Management</b> President and CEO and executive team	<ul style="list-style-type: none"> <li>Executes strategies and plans approved by the Board</li> <li>Is accountable for meeting performance targets and goals set by the Board</li> </ul>

Source: Adapted from Canada Health Infoway, Annual Report 2007–2008, page 29

declare a potential conflict of interest do not participate in any discussion of that issue at Board meetings, nor do they vote on the matter. Our review of the meeting minutes supports this assertion. Thus, we found that the Board of Directors demonstrates independence and that appropriate measures are in place to deal with conflicts of interest.

**4.29** In order to determine whether the Board uses appropriate practices in exercising its stewardship role, we conducted a literature search and identified good practices for boards. We noted that Infoway's Board and committees follow several of these practices, such as

- reviewing and approving strategic plans;

- monitoring Infoway's performance;
- overseeing management performance evaluations and compensation;
- obtaining independent advice on compensation packages;
- holding in camera sessions, without management present, when issues such as executive compensation and audits are discussed;
- reviewing the succession plan for the executive team;
- ensuring that appointments to the Board are staggered; and
- periodically reviewing the performance of the Board.

**4.30** Based on our audit work, we concluded that Infoway's Board of Directors uses appropriate practices in exercising its stewardship role.

#### **Infoway's strategic plans and activities are consistent with the funding agreements**

**4.31** The funding agreements require Infoway to prepare an annual corporate plan including a budget, objectives, and expected outcomes. In order for Infoway to achieve its objectives, it must develop and implement strategic plans and activities that will lead to electronic health records (EHRs) that are compatible across the country and consistent with the expectations of the federal, provincial, and territorial governments.

**4.32** We expected Infoway to implement strategic plans based on the funding agreements. We also expected Infoway to implement operational plans to realize its strategic plans.

**4.33** We examined Infoway's strategic documents, such as the corporate business plans (for the 2007–2008, 2008–2009, and 2009–2010 fiscal years), the Blueprint, and Infoway's strategic framework, Vision 2015. We found that Infoway produces strategic plans consistent with the purpose, objectives, and conditions set out in the funding agreements. These plans identify priorities along with measurable goals and targets. The Corporation has also set indicators and targets to measure progress on achieving the goals of these plans.

**4.34** We also found that Infoway has developed an approach to implementing EHRs, using the funding agreements with Health Canada as a starting point. Infoway has annual operational plans and budgets, and investment strategies for each EHR system. These documents are consistent with the strategic plans and have measurable goals and targets to assess performance.

**Infoway's goal for implementation of electronic health records needs to be clearly defined**

**4.35** Infoway's goal consists of two elements:

- By 2010, every province and territory and the populations they serve will benefit from new health information systems that will help transform their health care system.
- By 2010, 50 percent of Canadians and, by 2016, 100 percent will have their electronic health record available to their authorized health care professionals.

**4.36** Achievement of the first element means that every jurisdiction will have at least one system in place. With respect to the second element, Infoway officials told us that having EHRs "available" does not necessarily mean that they are being used or that they are compatible across the country. We did not find this clearly explained in Infoway's business plans or annual reports.

**4.37** We are concerned that the way the 2010 goal is stated may lead Canadians to believe that, when achieved, 50 percent of them will have an EHR that is used by their health care professionals and shared within and, if necessary, across jurisdictions.

**4.38 Recommendation.** To ensure Parliament and Canadians properly understand Infoway's goal, the Corporation should further explain in its public reports what is meant by having an electronic health record available to authorized health care professionals.

**Infoway's response.** We agree with the recommendation and we will make additional efforts to elaborate on the goal of having an electronic health record available to authorized health care providers in our public reporting commencing with our 2009–10 Annual Report and/or the 2010–11 Corporate Business Plan. Implementation of electronic health records is a complex task, as is reporting on progress. We have made continuous improvements to progress reporting and will continue to enhance our reporting in the future. Infoway reports on a regular basis jurisdictional progress to making electronic health records available to Canadians. For example, we provide members of Parliament and Senators with copies of our Annual Report and Corporate Business Plan. We also post these materials on our website to help ensure the broadest possible distribution to Canadians.

**Infoway identified risks to realizing its goal and strategic plans**

**4.39** Developing and implementing EHRs that are compatible across Canada is a complex and challenging task that involves the collaboration of many stakeholders and the integration of thousands of existing health information systems. Identifying and effectively managing the risks to this initiative are critical if Infoway is to fulfill its mandate and achieve its goal.

**4.40** In accordance with the funding agreements, we expected Infoway to have identified corporate risks that need to be managed so that it can realize both its goal and the objectives set out in its strategic plans.

**4.41** We found that Infoway has developed a Corporate Risk Management Framework and a risk management system to address risks identified in its strategic plans. The Framework describes risks to the achievement of the Corporation's goal, the likelihood of each risk occurring, and the potential impact of each risk. According to Infoway, its highest risks are

- failure to achieve the 2010 goal;
- privacy or security breaches of EHR systems;
- failure to achieve interoperable, replicable, and reusable systems that implement standards;
- vendor resistance to adoption of standards;
- slow adoption of EHR systems by health care professionals; and
- failure to deliver projects on time, within budget, and of the quality or performance expected.

**4.42** The Framework presents the mitigation strategies that Infoway can use, given its mandate, to address these risks. It is regularly updated and presented to and discussed by the Finance, Investment, and Audit Committee and the Board of Directors.

**Infoway has policies that govern spending but some controls need strengthening**

**4.43** We examined Infoway's policies with respect to executive compensation, executive travel and hospitality, and contracting for goods and services. Treasury Board policies do not apply to Infoway because it is not a government department or agency. Infoway has therefore established its own policies in these areas. We also examined the appropriateness of the management controls in place to ensure that these costs are managed in accordance with these policies. For

the 2007–08 fiscal year, compensation for the executive team was \$3.9 million. Travel and hospitality for the four executives included in our sample was \$266,000. The value of the contracts in 2007–08 for operating, program, and project costs, including the related amendments and extensions, was \$13.2 million.

**4.44 Executive compensation.** Infoway's Compensation Policy states that it will develop and maintain salary practices and procedures that provide an effective means of controlling salary expenditures while being responsive to changing market conditions. Thus, we expected Infoway to have established executive compensation packages, in accordance with its policies, that reflect due consideration for comparable benchmarks and the principles of prudence and probity.

**4.45** We found that Infoway's policies reflect the principles of prudence and probity and give due consideration to comparable benchmarks. We also found that the policies had been followed in establishing the compensation packages. Some of the supporting management controls over executive compensation include the following:

- compensation is governed by a strategy and policy approved by the Board;
- market surveys (to compare compensation rates in similar organizations) are conducted every two years by an independent compensation consulting firm;
- the President and CEO's compensation package is approved by the Board; and
- individuals' objectives are linked to corporate objectives at the start of each year and performance is assessed annually based on those objectives.

**4.46** We tested the management controls and the way the compensation policy was applied by examining the files of half of the executive team. We found that the controls were adequate to ensure compliance with the policies.

**4.47** We also examined the disclosure of information related to executive compensation. Section 7.1 of the 2007 Canada Health Infoway Funding Agreement with the federal government requires Infoway to disclose in its annual report the total amount paid to its management team. In its 2007–2008 Annual Report, Infoway stated that the total remuneration of the management team for the fiscal year ended 31 March 2008 was \$3.9 million. This represents the base salary,

car allowance, performance bonus, retention bonus, and RRSP or pension contributions for nine full-time equivalents.

**4.48 Executive travel and hospitality.** Infoway has established policies for travel as well as hospitality and gifts. Thus, we expected Infoway to ensure that travel and hospitality expenses are managed in accordance with its policies. We compared Infoway's policies with those of the Treasury Board of Canada. While not binding on Infoway, the Treasury Board policies provide a relevant point of comparison. We noted that the travel policy provisions were similar in all important respects, except that Infoway's policy requires verbal rather than written approval of the supervisor prior to travel. In comparing the hospitality policies, we noted that Infoway's policy does not specify dollar limits as does the federal policy. Instead, Infoway's policy states that the reasonableness of expenses should be in accordance with its Code of Business Conduct.

**4.49** We examined travel and hospitality claims selected at random from the 2007–08 fiscal year and found that the policies had been followed in all important respects and that appropriate management controls were in place.

**4.50 Contracting for goods and services.** Infoway has established a procurement policy for the acquisition of goods and services. Thus, we expected Infoway to ensure that contracts for goods and services are managed in accordance with its policy. We were told that the procurement policy was adapted from several organizations' policies, including the federal government's. We compared Infoway's policy with those of the Treasury Board of Canada. We noted that the federal policy specifies monetary thresholds above which contract amendments must be competitively awarded. Infoway, however, does not require that contract amendments be competitively awarded if the initial contract was competitively awarded.

**4.51** Infoway's procurement policy and guidelines specify a number of management controls, including signing authorities and thresholds for approvals. They also require that management decisions to forgo competitive bidding be disclosed to the Finance, Investment, and Audit Committee of the Board of Directors.

**4.52** To test the effectiveness of these controls, we examined a sample of 30 contracts chosen at random and all 5 contracts that were exempt from competitive bidding, as per Infoway's policy, because of the contractors' unique and specialized expertise. These contracts were for goods and services obtained in the 2006–07 and 2007–08 fiscal years.

We found control weaknesses that create an increased risk of contract disputes or deliverables that may not meet Infoway's expectations. For example,

- 13 of the 35 contracts we reviewed were put in place after work began or was completed (often by several weeks); and
- 14 of the 35 contracts in our sample were amended; of the 14 contracts, 10 were amended three to seven weeks after the original contract or amendment had expired.

**4.53 Recommendation.** Infoway should review and strengthen its management controls over contracting for goods and services to reduce the risk of contract disputes.

**Infoway's response.** We agree to review and analyze current practices to strengthen management controls. Improvements to management controls related to the timing of contract signatures will be put in place by the end of the 2009–10 fiscal year. We do not pay any invoice unless the contract is acceptably executed and the Infoway manager has certified that the product or service has been appropriately delivered by the contractor.

**4.54 Amending contracts for goods and services.** Infoway's policy does not require information concerning amendments to contracts awarded competitively to be reported to the Board's Finance, Investment, and Audit Committee. We found that 8 of the 35 contracts we examined were, in accordance with the policy, amended several times without using a competitive process. This raised their value significantly. In one particularly significant instance, we found that a one-year contract for \$144,000, originally competitively awarded, was amended five times over two and a half years, raising its total value to \$726,000. In our opinion, this practice is not conducive to the fair and transparent awarding of contracts and it raises questions about the appropriateness of Infoway's contracting policy. Also, not reporting significant contract amendments to the Committee restricts its ability to monitor the effectiveness of internal controls and its members from exercising their duties as directors.

**4.55 Recommendation.** Infoway should review its contracting policy with respect to contract amendments and extensions to ensure fairness, transparency, and disclosure to the Board.

**Infoway's response.** We agree to review the contracting policy with respect to amendments and extensions and to present the proposed revisions to the Board for approval prior to the fourth quarter of the 2009–10 fiscal year.

Infoway's Board-approved contracting policy was developed to respond to competitive market conditions and the often unique and rare combination of skill sets required to deliver the Corporation's mandate. The current policy reflects the necessary balance between market competitiveness, the Corporation's business requirements, and due respect for the expenditure of public funds. We are compliant with the current policy related to the tendering of amendments and extensions and the reporting of those amendments and extensions to the Board of Directors.

## Funding electronic health records projects

**4.56** Since it was founded in 2001, Infoway has approved about \$1.2 billion in funding for projects related to the five core systems of an electronic health record (EHR) (Exhibit 4.1). Most of these projects are cost-shared with the provinces and territories and involve projects critical to the success of Infoway's goal of 50 percent of Canadians having an EHR available to their authorized health care professionals by 2010 and 100 percent by 2016.

**4.57** Infoway approves each project based on the project's potential for success and commitment to satisfying requirements, such as aligning with the Blueprint and complying with standards. It funds projects using a gated funding model that ties reimbursement to the achievement of project milestones. As mentioned in paragraph 4.12, for most EHR projects, 50 percent of the funding Infoway reimburses to the provinces and territories is directly tied to adoption of systems that it funded.

**4.58** We reviewed 29 projects approved by Infoway. We chose the sample from those projects that are deemed to be core systems for an EHR: registries, diagnostic imaging systems, drug information systems, laboratory information systems, and interoperable electronic health records (iEHRs). From the Corporation's inception in 2001 to 31 March 2009, the projects we chose to review accounted for \$886 million or 72 percent of funding approved by Infoway for investment in the five core systems.

### Infoway approves projects that are consistent with its strategic plans

**4.59** We expected Infoway to ensure that it funds projects consistent with its strategic plans and, most importantly, the Blueprint.

**4.60** We found that Infoway has established and consistently applied an approval process that assessed proposed projects against the requirements for EHRs that are compatible across the country. The Corporation has also established legal agreements for each project with

the provinces and territories, to provide Infoway with greater assurance that the requirements will be respected.

**4.61** To ensure that projects address issues related to privacy and security, and to satisfy the terms of its funding agreements with Health Canada, Infoway requires jurisdictions to submit, or make available for review, privacy impact assessments (PIAs) for projects that will ultimately involve personal health information. Infoway examines these assessments to ensure that projects have addressed their privacy and security requirements. In those projects we examined that required PIAs, we found that the jurisdictions had submitted them, or made them available, to Infoway for review.

**4.62** We also found that project documentation submitted to Infoway at the time of approval outlined how all the projects we reviewed would comply with standards and align with the Blueprint, or would do so over time. Requirements related to standards and the Blueprint were also included in project statements of work.

**Infoway monitors the progress of projects but needs to better document analyses of project deliverables**

**4.63** We expected Infoway to monitor the progress of EHR projects to ensure that project objectives are achieved and project risks are managed.

**4.64** We found that Infoway has established a process for monitoring its funding of projects, but the process could be better documented and more steps could be taken to ensure that its requirements are satisfied.

**4.65 Documentation of project deliverables and analyses.** Infoway obtains most of its information on the progress of its projects through progress reports submitted by the provinces and territories. It also stays informed of progress by reviewing project deliverables, being part of project steering committees, and communicating informally with the provinces and territories.

**4.66** Infoway's project managers compile the information obtained through these methods into monthly project status reports. These reports assess how well a project is progressing against the approved plan. They also provide a current assessment of various risks and issues that may have an impact on the project.

**4.67** We reviewed project status reports prepared by Infoway and found that project management teams are monitoring issues and risks. We also found that Infoway had established and consistently followed

its process for reviewing and approving project deliverables. However, we noted that analyses to support the approval of project deliverables were not always fully documented. Because the approval of project deliverables is tied to the release of funds, often worth hundreds of thousands of dollars, analyses to ensure that the project requirements have been met and that acceptable quality has been achieved ought to be better documented to ensure accountability and transparency.

**4.68 Recommendation.** To ensure accountability and transparency, Infoway should better document its analyses of project deliverables to support its decision to release funds.

**Infoway's response.** We agree that there is scope for improvement to deliverables documentation and the Corporation will address this issue immediately. This will build on Infoway's documentation process and methodology for the approval of deliverables, including the third-party claims verification process that assesses the adequacy and effectiveness of the policies, controls, and systems in place for the management of Infoway-funded projects.

**Infoway does not have sufficient assurance that standards are correctly implemented**

**4.69 Conformance testing.** As a condition of funding, Infoway requires projects to comply with standards and align with the Blueprint. According to Infoway, projects must comply with these requirements in order to achieve EHRs that are compatible across the country.

**4.70** To ensure that projects have satisfied these requirements, it is important that systems be tested. Infoway has acknowledged that it must verify compliance with standards to achieve its vision of EHRs that are compatible across the country. It has informed its Board of Directors that the failure to correctly implement standards poses risks to high-quality health care, patient safety, and the privacy of patient information. Infoway told us that it has a plan and an approach to ensure the compatibility of systems across Canada in those instances where there are variances in standards conformance. However, we noted that the approach to dealing with these variances has not yet been fully developed. Consequently, we believe the inconsistent implementation of standards remains a risk to national compatibility. Infoway's own assessment of risk regarding the compatibility of EHR systems is rated as high.

**4.71** Conformance testing determines if a standard or specification has been correctly implemented in a system. Because standards may be

interpreted and implemented in different ways, conformance testing can help reduce the risks associated with the improper implementation of standards.

**4.72** Infoway acknowledges the value of conformance testing and has taken a number of steps to support testing by the provinces and territories. For example, the Corporation has defined guidelines for the implementation of standards. It has also developed tools that the provinces and territories can use to test their systems.

**4.73** However, we found that Infoway does not obtain from the provinces and territories the results of conformance testing on EHR systems. Consequently, the Corporation does not have sufficient assurance that EHR systems will be correctly implemented.

**4.74 Recommendation.** To ensure that standards will be properly implemented in the five core systems of an electronic health record, Infoway should obtain from the provinces and territories the results of conformance testing on systems it will fund, and obtain assurance that non-conformance issues, if any, will be resolved.

**Infoway's response.** On a go forward basis, for new investment approvals, and with the cooperation of the jurisdictions, we agree to work to obtain the results of conformance testing from the jurisdictions on the five core electronic health record systems we will fund in the future and obtain assurance that non-conformance issues, if any, will be resolved.

We have acknowledged that there will be variations in systems requirements and thus standards requirements within jurisdictions. Jurisdictions have the mandate and authority to ensure conformance and perform user acceptance testing to their specific requirements. They are most familiar with those requirements and are best positioned to ensure they are met. Some differences are valid within a specification and require no action, whereas some are due to different maintenance releases of a standard used by various jurisdictions largely driven by their timeline for implementation. Despite variances in standards conformance, the use of a standard within a jurisdiction will ensure interoperability within that jurisdiction.

Pan-Canadian interoperability can still be achieved and differences in standards can be mitigated by

- ensuring the same standard is used for cross-jurisdictional interoperability, or

- mapping to accommodate differences in the implementation of the standard.

We believe that this is not only feasible but also practical and cost effective.

#### **Infoway has taken reasonable steps to maximize its use of funds for projects**

**4.75** We expected Infoway, in accordance with the funding agreements with Health Canada, to show that it collaborates with its federal, provincial, and territorial partners and other stakeholders to ensure the best use of funds for EHR projects.

**4.76** We found that Infoway has taken reasonable steps to maximize the use of funding. The Corporation has developed and supports initiatives that make it possible for its partners to replicate and reuse information and knowledge in their EHR projects. As mentioned before, foremost among these are the Blueprint and the Standards Collaborative.

**4.77** Infoway also promotes the reuse of common systems through agreements with preferred providers. This is designed to reduce costs, encourage replication, streamline the Corporation's project approval process, and ensure that projects adhere to requirements for national compatibility. Agreements with preferred providers are established only after the vendor has successfully completed a provincial or territorial procurement process or a procurement process coordinated by Infoway on behalf of the provinces or territories.

**4.78** Infoway has developed sets of web-based toolkits that contain a variety of project documents such as case studies, templates, plans, and reports. The toolkits are designed to help reduce the risk, time, and cost of implementing projects.

#### **Reporting on results**

**4.79** As mentioned earlier, Infoway has developed a measurable goal and targets to assess its progress in developing and deploying electronic health records (EHRs) across the country. These provide the basis for reporting on progress it has achieved.

**4.80** The funding agreements acknowledge that Infoway's ability to achieve key outcomes depends on collaboration with the provinces and territories. Although Infoway needs provinces and territories representing 50 percent of Canada's population to implement each EHR system to achieve its 2010 goal, it relies on the provinces and territories to set their own pace for implementation.

**4.81** In accordance with the 2007 Funding Agreement's requirement regarding ongoing performance monitoring strategies, we expected Infoway to have selected performance indicators and targets to measure progress on achieving the goal identified in its strategic plans and to report on progress achieved compared with expected performance.

**4.82** We reviewed Infoway's corporate goal and targets from 2005–2006 to 2009–2010. We examined its public reporting and internal reporting against this goal and these targets. We also analyzed the methods it has used to describe and report progress.

#### **Additional information on progress achieved is needed**

**4.83** **Reporting on progress achieved.** Reporting progress on a complex task such as creating EHRs that are compatible across the country is difficult. Infoway reports progress against its 2010 goal by measuring the percentage of Canadians living in provinces or territories where an EHR is available to their health care professionals. As each province or territory implements all the core systems required for an EHR, its percentage of the total Canadian population is counted toward Infoway's 2010 goal. In its 2009–2010 Corporate Business Plan, Infoway reported that 17 percent of Canadians live in provinces or territories where an EHR is available to their authorized health care professionals. More than half of these Canadians live in Alberta.

**4.84** Infoway's 2010 goal concerns the availability of EHRs. Thus, it reports as complete those projects that are available for use. However, the Corporation has not publicly reported progress on other areas critical to the achievement of EHR systems across the country—for example, the adoption or use of systems by health care professionals.

**4.85** We found that although Infoway allocates 50 percent of its project funding to the achievement of adoption targets outlined in legal agreements for projects, the Corporation does not report on the adoption or use of systems it funds in the 2008–2009 Annual Report or 2009–2010 Corporate Business Plan. We found that some projects reported as 95 to 100 percent complete with respect to availability had not fully achieved adoption targets or were not being used. For example, the Alberta drug information system is available to health care professionals, but Infoway's internal reporting indicates that the project has been on hold for about one year because the system is not using the pan-Canadian standard required to fully achieve the project's adoption targets. Quebec's client registry is also available for use, but

Infoway's project status reports indicate that the project is facing a significant risk related to the implementation and use of the system.

**4.86** We believe that by reporting on the adoption or use of the EHR systems it funds, Infoway would provide assurance to Parliament and Canadians that the new systems are not only available but are beginning to be used as envisioned.

**4.87** We found that Infoway has not publicly reported on another critical area—the extent to which systems comply with standards and align with the Blueprint. A core principle of Infoway's funding agreements with Health Canada is to work to achieve EHRs that are compatible across the country. Although not required under the funding agreements, Infoway ought to report on the extent to which completed systems meet the requirements for national compatibility in order to provide a better sense of progress. This information would provide additional insight into whether the objectives of the funding agreements are being achieved. For example, Infoway is reporting in its 2009–2010 Corporate Business Plan that a completed EHR system is available to all health care professionals in Prince Edward Island and Alberta. Although both provinces have made EHRs available to health care professionals, not all core systems of their EHR have implemented the standards necessary for national compatibility. In addition, both provinces will need to make additional investments before they are able to exchange information with other provinces and territories. Obtaining the results of conformance tests would help Infoway to report on compliance with standards.

**4.88 Recommendation.** To ensure Parliament and Canadians have sufficient information about progress achieved, Infoway should report on the extent to which electronic health record systems have been adopted by health care professionals and are compliant with standards.

**Infoway's response.** We agree with the recommendation, recognizing, however, that solution implementation and availability must be completed before adoption can occur. These major project initiatives often take 24 to 36 months to be fully implemented.

Infoway, in conjunction with the jurisdictions, will endeavour to develop measures on the extent to which EHR systems have been adopted by health care providers. Further, Infoway will work with jurisdictions to develop a standards compliance report.

**4.89 Reporting results achieved compared with expected results.** Infoway reports annually on expected results for the coming year and on the performance results of the previous year. However, we found

that the Corporation does not compare results achieved with expected results in either its corporate business plans or annual reports. Nor does it explain differences between its achievements and its expectations. For example, in the 2008–2009 Corporate Business Plan, Infoway expected that 28 percent of Canadians would have an EHR available to their health care provider by 31 March 2009. According to the 2008–2009 Annual Report and the 2009–2010 Corporate Business Plan, the progress Infoway reported was 17 percent, or 11 percentage points less than expected. Infoway provides no indication in its Corporate Business Plan or Annual Report that it has fallen short of expected progress, and it does not explain the reasons for the shortfall.

**4.90 Recommendation.** To ensure Parliament and Canadians have sufficient information about progress achieved, Infoway should report on results achieved compared with expected results and explain any difference.

**Infoway's response.** We agree to report on variances between expected results and achievements related to the electronic health record goal line in our public reporting beginning with the 2009–10 Annual Report.

This will build on the Corporation's existing reporting on expected results and actual performance in its Annual Report (in the section entitled, Delivering Results: Performance Against Objectives). We provide members of Parliament (MPs) and Senators with copies of our Annual Report and Corporate Business Plan. Last year, we undertook an initiative (which we plan to repeat annually) to provide MPs and Senators with jurisdictional fact sheets to highlight EHR advancements within their respective region.

**4.91 Reporting on progress in achieving performance targets.** Infoway has developed performance targets for each core system of an EHR. For example, by 2010, Infoway is expecting laboratory information systems to capture and store 75 percent of information on laboratory test results. By 2016, it expects to provide 95 percent of hospital and public health laboratories in eight provinces and territories with access to patients' laboratory test profiles. Infoway is also expecting drug information systems to electronically capture and store 75 percent of information on dispensed medication.

**4.92** We found that although Infoway has reported these targets publicly in its 2007–2008 and 2008–2009 corporate business plans, the Corporation has not reported its progress in achieving the targets. Reporting on the extent to which health care professionals are using

EHR systems would provide useful information to Infoway management and more complete information to Parliament and Canadians.

**4.93 Recommendation.** To ensure Parliament and Canadians have sufficient information about progress achieved, Infoway should report on the results achieved for performance targets established for each core system of the electronic health record.

**Infoway's response.** We agree with the recommendation. The Corporation will need to finalize its work with the jurisdictions on both data availability and data quality, to ensure that additional reporting will be accurate. This will build on the Corporation's existing reports on the value, benefits, and advancement that electronic health record systems are delivering to Canadians through our proactive media relations efforts, corporate materials, and the Internet, as well as through hundreds of public presentations and speaking engagements.

## Being accountable to Parliament

**4.94** Health Canada's funding of Infoway is provided through a series of grants (made in 2001, 2003, 2004, and 2007). Accountability measures that apply to Infoway are defined in the funding agreements between the Corporation and Health Canada. These measures are intended to ensure that Health Canada is able to account to Parliament for Infoway's use of funding provided by the federal government.

**4.95** The terms and conditions of funding agreements between Health Canada and Infoway have evolved over time as the expectations of governments have changed. Funding that Infoway received in 2001, 2003, and 2004 totalling \$1.2 billion was provided in a lump sum transfer of funds, and use of the funds was subject to fewer reporting and evaluation requirements.

**4.96** The 2007 Infoway funding agreement included several new provisions to strengthen Infoway's accountability to Health Canada. For example, under the 2007 funding agreement, funding to Infoway of \$400 million is to be provided only on a needs basis. The funding agreement requires Infoway to submit annual cash flow statements estimating its financial requirements for the upcoming year. As of 31 March 2009, Infoway had drawn down about \$162 million in funding against the 2007 agreement. The agreement also allows the Minister to conduct an evaluation of Infoway's activities and to request additional information for the purpose of keeping the Accounts of Canada.

### Health Canada needs to further develop its approach to monitoring

**4.97** Since 2001, the federal government has granted to Infoway a total of \$1.6 billion in a series of funding agreements. Health Canada's role as the federal signatory on the funding agreements is to ensure that Infoway is complying with the funding agreements. We therefore expected that Health Canada would have appropriate mechanisms in place to ensure that Infoway is complying with the funding agreements.

**4.98** Health Canada periodically obtains assurance of compliance with the funding agreements. Per the funding agreements, Infoway hires an independent auditor to conduct an annual compliance audit of its compliance with the terms of the funding agreements. Also, independent evaluations are conducted every five years. We did not audit any of these independent audits and evaluations. These audits and evaluations are the most important sources of information for ensuring that Infoway is complying with the funding agreements and is achieving objectives outlined in the agreements. All compliance audits to date, and the evaluation completed in 2006, have concluded that Infoway is complying with the funding agreements in all important respects and is making progress toward its objectives.

**4.99** Health Canada also needs to regularly monitor Infoway's activities so that it has early warning of potential non-compliance. Although Infoway was created in 2001, Health Canada has just approved, in 2008, a monitoring framework to help the Department and the federal government reduce the inherent risk associated with such large amounts of funding. The framework identifies Infoway's accountability requirements, as outlined in the funding agreements. It also identifies 14 processes necessary to assess the Corporation's compliance with those requirements. At the time of the audit, eight of these processes had been developed. For example, the monitoring framework describes the process to follow in reviewing annual reports and corporate business plans.

**4.100** We noted that at the time of the audit, Health Canada had not yet developed the remaining six processes. For example, the Department had identified the need for a risk assessment tool to identify and assess areas of risk to compliance with the funding agreements, but it had not yet developed one.

**4.101 Recommendation.** To better fulfill its responsibility for monitoring Infoway's compliance with the funding agreements, Health Canada should fully develop and implement its monitoring framework.

**Health Canada's response.** Health Canada agrees with the Auditor General's recommendation.

The Department recognizes the importance of monitoring Infoway's compliance with the funding agreements and has been monitoring its compliance since the first funding agreement in 2001. As of September 2009, the Department has developed a comprehensive framework to monitor Infoway's compliance more systematically. The framework includes an overview of Infoway's deliverables and activities for a given fiscal year, schedules with the timing of annual and ad hoc deliverables and activities, and a description of federal activities to support due diligence. The framework also includes 14 appendices that set out detailed procedures and tools used to support monitoring, including a risk assessment tool and checklists to foster consistency and transparency (such as factors to consider in reviewing the Annual Report), and procedures to be followed for specific events and activities (such as ministerial appointments to the Board). The framework will be updated periodically, as needed.

The Department welcomes the Auditor General's support for our approach to monitoring investments in Infoway.

## Meeting important challenges

**4.102** Our chapter notes that even though Infoway has made a significant contribution to the development and implementation of EHRs, other important challenges remain. These include ensuring that systems have been adopted and that tangible benefits of EHRs are realized throughout the country. Understanding these challenges provides the context for understanding the major task facing Infoway, Health Canada, and the provinces and territories. Thus, this section is forward-looking and is not based on our audit work. It is intended to help readers of this report to put the observations noted in the chapter in perspective.

## Meeting the 2010 goal

**4.103** Infoway is facing major challenges in reaching its 2010 goal of 50 percent of Canadians having an EHR available to their authorized health care professionals. As previously noted, Infoway is dependent on the provinces and territories to secure funds and implement the projects. According to Infoway, as of 31 March 2009, only 17 percent of Canadians lived in a province or territory where a complete EHR system was available. Infoway anticipates that it will achieve the 50 percent goal by 31 December 2010. At the same time, we noted that Infoway's own assessment of the risk to achieving the goal is high.

### Upgrading systems to achieve compatibility

**4.104** Not all completed EHR projects have implemented the standards required for national compatibility. According to Infoway, some of these projects will do so only after they have been upgraded as part of future projects. It is not clear who will provide the funding needed to ensure that all systems will be compatible or when this funding will be provided.

### Implementing electronic medical records

**4.105** Infoway has estimated that about 80 percent of patient encounters with the health care system take place with doctors and specialists outside a hospital setting. A survey conducted in 2007 found that approximately 10 percent of Canadian doctors maintain their patients' health records electronically. Another 26 percent of doctors use a mix of electronic and paper-based records. Unless the percentage of primary care doctors using electronic medical records (EMRs) increases significantly, the potential benefits offered by electronic health records (EHRs) will not be fully realized (see paragraph 4.4 on the difference between an EMR and EHR). As previously mentioned, the *Budget Implementation Act, 2009*, authorizes the payment of \$500 million to Infoway. However, there is no funding agreement yet for this amount. Some of these funds would go toward the implementation of EMR systems.

### Using new consumer health solutions

**4.106** New health information systems designed to allow patients direct access and control over their personal health information are becoming more common. These systems are often referred to as consumer health platforms or solutions. It is expected that patients will use these platforms or solutions to share personal health information with health care professionals as well as with EHRs, EMRs, and hospital information systems. Companies have indicated their intent to provide consumer health solutions to Canadians.

**4.107** As mentioned previously, nationally compatible EHRs require that all components of the system be standards-based and comply with compatibility requirements. Consumer health solutions are no different. It will be important that the vendors of these systems offer solutions compatible with the systems Infoway has funded to date.

**4.108** Infoway has begun to address this challenge by launching a certification service to ensure that consumer health solutions available for sale meet the Corporation's requirements for privacy, security, and

compatibility. Certification is expected to assure individual Canadians and other stakeholders, such as doctors and pharmacies, that consumer health solutions from certified vendors are compatible with existing EHR systems.

**4.109** According to Infoway, the success of its certification service will ultimately depend on the extent to which provinces and territories, hospitals, doctors, pharmacists, laboratories, and suppliers of software products comply with standards themselves. This dependency accentuates the importance of Infoway's continuing to approve projects that commit to complying with standards and taking steps to verify that EHR projects implement those standards.

### Ensuring the privacy and security of personal health information

**4.110** The concept of EHRs that are compatible across the country is based on the premise that Canadians' health information will be available to their health care professionals no matter where they live or where they may be when they need health care services. The sharing of data among the provinces and territories is critical to the achievement of EHRs that are compatible across the country. This is particularly true for Canadians who live in smaller provinces and territories and require specialized care available only in larger centres. It is also of concern to Canadians who move from one part of the country to another, travel often, or live in one place but work or study in another.

**4.111** Different provincial and territorial laws regarding the collection, use, and disclosure of personal health information pose a challenge to the sharing of this information between jurisdictions. Although Infoway is not responsible for resolving these legislative differences, the Corporation has set up discussions between provincial and territorial ministries of health, and agencies in each province and territory responsible for ensuring that provincial and territorial privacy laws are respected.

**4.112** Together with the **Privacy Forum**, Infoway has established working groups to focus efforts on common approaches for accountability, consent, secondary uses, and flow of data between jurisdictions.

**4.113** Finally, a privacy breach of EHR systems has the potential to undermine the strong support among Canadians for the EHR initiative. Such a breach would also negatively affect support for EHRs among health care professionals.

**Privacy Forum**—The Privacy Forum was established to encourage privacy officers and representatives from federal, provincial, and territorial health departments to discuss privacy governance matters as they relate to electronic health information management.

## Conclusion

**4.114** Overall, we found that Canada Health Infoway is exercising due regard in managing funds from the federal government to achieve its goal related to the implementation of electronic health records (EHRs) across Canada.

**4.115** Our examination of EHRs shows that Infoway has set a good foundation for the work it is doing by applying appropriate governance mechanisms to carry out its mandate and objectives. It has also implemented strategic plans, such as the Blueprint, that are consistent with its funding agreements with Health Canada. These plans guide its investments in creating EHRs that are compatible across Canada. Infoway has set a goal for this initiative, but it could be more clearly defined. It has also implemented appropriate management controls for operational spending, although controls for contracting for goods and services need to be strengthened.

**4.116** We found that Infoway is exercising due regard in approving, monitoring, and making best use of its funds for EHR projects. However, Infoway ought to better document its analyses of project deliverables before releasing payments. Infoway approves projects that are designed to align with the Blueprint and comply with standards. However, it does not have sufficient assurance that, once implemented, projects will comply with these requirements.

**4.117** We observed that Infoway reports progress on achieving the goal identified in its strategic plans and the funding agreements. However, the Corporation does not annually report progress achieved against expected progress and it does not report on its performance targets that are related to the use of EHR systems. Also, it does not report on project adoption and project compliance with requirements for national compatibility. This information is important to providing a complete picture of progress achieved.

**4.118** Through annual independent compliance audits and periodic evaluations, Health Canada ensures that Infoway complies with the funding agreements. However, at the time of the audit, the Department had not yet fully developed an approach to its ongoing monitoring activities to detect early warning of potential non-compliance.

**4.119** Infoway has accomplished much in the eight years since its creation. Progress achieved thus far required the collaboration of Infoway, all provinces and territories, and other stakeholders. Significant challenges remain to ensuring that tangible benefits of EHRs are realized across the country.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The overall audit objective was to determine whether Canada Health Infoway Inc. (Infoway) is exercising due regard in managing funds from the federal government to achieve its goal of implementing compatible electronic health records across Canada, and whether Health Canada ensures that Canada Health Infoway Inc. complies with the funding agreements.

The audit sub-objectives were to determine whether

- Infoway is implementing strategic plans consistent with the funding agreements to guide its funding of compatible electronic health records across Canada;
- Infoway is exercising due regard in approving, monitoring, and maximizing its use of funds for electronic health records projects;
- Infoway reports progress on achieving the goal identified in its strategic plans and the funding agreements;
- Infoway has appropriate governance mechanisms to carry out its mandate and objectives;
- Health Canada ensures that Infoway complies with the funding agreements; and
- Infoway has appropriate management controls in selected areas.

### Scope and approach

Our audit focused on Canada Health Infoway Inc.'s funding of compatible electronic health records (EHRs) across Canada. We reviewed 29 projects approved by Infoway. We chose the sample from those projects that are deemed to be the five core systems for an EHR: registries, diagnostic imaging systems, drug information systems, laboratory information systems, and interoperable electronic health records. Projects were selected in order to provide a high degree of coverage of total approved funding, as well as at least 50 percent of approved funding for each of the five core systems. As of 31 March 2009, the projects we chose to review accounted for \$886 million or 72 percent of funding approved by Infoway for investment in the core systems. We did not audit other systems such as Infrastructure, Innovation and Adoption; Patient Access to Quality Care; Public Health Surveillance; and Telehealth.

We examined the governance structure, selected management controls (executive compensation, executive travel and hospitality, and contracting for goods and services). We looked at 35 contracts out of a total of 555 contracts ranging in value from \$179.89 to \$6.8 million awarded between 1 April 2006 and 31 March 2008. Of the 35 contracts, 30 were selected at random. The other 5 were selected because they had been exempted from competitive bidding, per Infoway's policy.

Finally, we reviewed the appropriateness of Health Canada's accountability arrangements under the various funding agreements. Due to the difficulty in obtaining reliable data, our audit did not attempt to compare Canada's progress in developing and implementing electronic health records with that of other countries.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
<b>Canada Health Infoway Inc.</b>	
We expected that Canada Health Infoway Inc. would have clearly defined roles and responsibilities of the parties in the governance structure.	<ul style="list-style-type: none"> <li>The Canadian Institute of Chartered Accountants, 20 Questions Directors of Not-for-Profit Organizations Should Ask About Governance, page 19</li> <li>Excellence in Canada's Health System; Principles for Governance, Management, Accountability and Shared Responsibility, page 14</li> </ul>
We expected that Canada Health Infoway Inc. would have an independent Board of Directors that uses appropriate practices in exercising its stewardship role.	<ul style="list-style-type: none"> <li>Health Canada Accountability Framework for Canada Health Infoway, page 23</li> <li><i>Canada Corporations Act</i>, subsections 98(1) to (4)</li> <li>Canada Health Infoway, Board of Directors' Charter #5 and #6 (21 September 2005)</li> </ul>
We expected that Canada Health Infoway Inc. would implement strategic plans that are consistent with the funding agreements.	<ul style="list-style-type: none"> <li>Enterprise Value: Governance of IT Investments, Val IT Framework 2.0–VG1.5, page 33</li> <li>2007 Canada Health Infoway Funding Agreement, section 4.1, page 8</li> <li>2003 Canada Health Infoway Funding Agreement, section 3.4.1, page 6</li> </ul>
We expected that Canada Health Infoway Inc. would have operational plans to realize its strategic plans.	<ul style="list-style-type: none"> <li>Enterprise Value: Governance of IT Investments, Val IT Framework 2.0–VG2.4, page 35</li> </ul>
We expect Canada Health Infoway Inc. would have identified corporate risks that need to be managed to realize its strategic plans.	<ul style="list-style-type: none"> <li>2007 Canada Health Infoway Funding Agreement, section 1.5, page 3</li> </ul>
We expected that Canada Health Infoway Inc. would have established executive compensation packages, in accordance with its policies, that reflect due consideration for comparable benchmarks and the principles of prudence and probity.	<ul style="list-style-type: none"> <li>Canada Health Infoway, Board of Directors' Charter (21 September 2005)</li> <li>Canada Health Infoway's Compensation Policy</li> </ul>
We expected that Canada Health Infoway Inc. would ensure that travel and hospitality expenses are managed in accordance with its policies.	<ul style="list-style-type: none"> <li>Canada Health Infoway's Travel Policy and Hospitality and Gifts Policy</li> <li>Canada Health Infoway, By-Law No.1 (18 January 2001)</li> <li>Canada Health Infoway, Signing Authorities (6 December 2006)</li> </ul>

Criteria	Sources
We expected that Canada Health Infoway Inc. would ensure that contracts for goods and services are managed in accordance with its policies.	<ul style="list-style-type: none"> <li>• Canada Health Infoway's Procurement Policy</li> <li>• The Canadian Institute of Chartered Accountants, 20 Questions Directors of Not-for-Profit Organizations Should Ask About Governance, page 16</li> </ul>
We expected that Canada Health Infoway Inc. would ensure that the projects it funds are consistent with its strategic plans and the EHRS Blueprint.	<ul style="list-style-type: none"> <li>• Enterprise Value: Governance of IT Investments, Val IT Framework 2.0–VG2.4, page 35</li> </ul>
We expected that Canada Health Infoway Inc. would monitor the progress of electronic health records projects to ensure that project objectives are achieved and project risks are managed.	<ul style="list-style-type: none"> <li>• Enterprise Value: Governance of IT Investments, Val IT Framework 2.0–VG5.3, IM6.2, and IM6.3, pages 41 and 81</li> <li>• 2007 Canada Health Infoway Funding Agreement, sections 5.1.3 to 5.1.5, 5.2.3, and 5.2.6, pages 10 and 11</li> </ul>
We expected that Canada Health Infoway Inc. would show that it collaborates with federal, provincial, and territorial partners, and other stakeholders, to maximize its use of funds for electronic health records projects.	<ul style="list-style-type: none"> <li>• 2007 Canada Health Infoway Funding Agreement, sections 5.1.3, 5.2.2, and 5.2.4, pages 10 and 11</li> </ul>
We expected that Canada Health Infoway Inc. would have identified performance indicators and targets to measure progress on achieving the goal identified in its strategic plans and the funding agreements.	<ul style="list-style-type: none"> <li>• Enterprise Value: Governance of IT Investments, Val IT Framework 2.0–VG5.1, page 41</li> <li>• 2007 Canada Health Infoway Funding Agreement, section 1.5 (v), page 3</li> </ul>
We expected that Canada Health Infoway Inc. would report progress achieved compared with expected performance.	<ul style="list-style-type: none"> <li>• Enterprise Value: Governance of IT Investments, Val IT Framework 2.0–VG5.1 and VG5.3, page 41</li> <li>• 2007 Canada Health Infoway Funding Agreement, section 7.1.1(b), page 15</li> <li>• 2004 Canada Health Infoway Funding Agreement, sections 5.1.5 and 5.2.1.5, pages 13 and 14</li> </ul>
Health Canada	
We expected that Health Canada would have implemented appropriate mechanisms for ensuring that Canada Health Infoway Inc. complies with the funding agreements.	<ul style="list-style-type: none"> <li>• Health Canada Accountability Framework for Canada Health Infoway</li> <li>• 2007 Canada Health Infoway Funding Agreement, Preamble</li> </ul>

Management reviewed and accepted the suitability of the criteria used in the audit.

### Period covered by the audit

For the most part, our audit focused on the 2006–07 and 2007–08 fiscal years. In some instances, we went back further.

Planning and reporting	2005–06 to 2009–10
EHR projects	2003–04 to 2009–10
Executive compensation	2006–07 to 2008–09
Travel and hospitality	2007–08
Contracting	2006–07 to 2007–08
Health Canada	2001–02 to 2008–09

Audit work for this chapter was substantially completed on 30 April 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 4. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<b>Setting the direction</b>	
<p><b>4.38</b> To ensure Parliament and Canadians properly understand Infoway's goal, the Corporation should further explain in its public reports what is meant by having an electronic health record available to authorized health care professionals. (4.35–4.37)</p>	<p><b>Infoway's response.</b> We agree with the recommendation and we will make additional efforts to elaborate on the goal of having an electronic health record available to authorized health care providers in our public reporting commencing with our 2009–10 Annual Report and/or the 2010–11 Corporate Business Plan. Implementation of electronic health records is a complex task, as is reporting on progress. We have made continuous improvements to progress reporting and will continue to enhance our reporting in the future. Infoway reports on a regular basis jurisdictional progress to making electronic health records available to Canadians. For example, we provide members of Parliament and Senators with copies of our Annual Report and Corporate Business Plan. We also post these materials on our website to help ensure the broadest possible distribution to Canadians.</p>
<p><b>4.53</b> Infoway should review and strengthen its management controls over contracting for goods and services to reduce the risk of contract disputes. (4.43–4.52)</p>	<p><b>Infoway's response.</b> We agree to review and analyze current practices to strengthen management controls. Improvements to management controls related to the timing of contract signatures will be put in place by the end of the 2009–10 fiscal year. We do not pay any invoice unless the contract is acceptably executed and the Infoway manager has certified that the product or service has been appropriately delivered by the contractor.</p>
<p><b>4.55</b> Infoway should review its contracting policy with respect to contract amendments and extensions to ensure fairness, transparency, and disclosure to the Board. (4.54)</p>	<p><b>Infoway's response.</b> We agree to review the contracting policy with respect to amendments and extensions and to present the proposed revisions to the Board for approval prior to the fourth quarter of the 2009–10 fiscal year.</p> <p>Infoway's Board-approved contracting policy was developed to respond to competitive market conditions and the often unique and rare combination of skill sets required to deliver the Corporation's mandate. The current policy reflects the necessary</p>

## Recommendation

## Response

balance between market competitiveness, the Corporation's business requirements, and due respect for the expenditure of public funds. We are compliant with the current policy related to the tendering of amendments and extensions and the reporting of those amendments and extensions to the Board of Directors.

## Funding electronic health records projects

**4.68** To ensure accountability and transparency, Infoway should better document its analyses of project deliverables to support its decision to release funds. (4.63–4.67)

**Infoway's response.** We agree that there is scope for improvement to deliverables documentation and the Corporation will address this issue immediately. This will build on Infoway's documentation process and methodology for the approval of deliverables, including the third-party claims verification process that assesses the adequacy and effectiveness of the policies, controls, and systems in place for the management of Infoway-funded projects.

**4.74** To ensure that standards will be properly implemented in the five core systems of an electronic health record, Infoway should obtain from the provinces and territories the results of conformance testing on systems it will fund, and obtain assurance that non-conformance issues, if any, will be resolved. (4.69–4.73)

**Infoway's response.** On a go forward basis, for new investment approvals, and with the cooperation of the jurisdictions, we agree to work to obtain the results of conformance testing from the jurisdictions on the five core electronic health record systems we will fund in the future and obtain assurance that non-conformance issues, if any, will be resolved.

We have acknowledged that there will be variations in systems requirements and thus standards requirements within jurisdictions. Jurisdictions have the mandate and authority to ensure conformance and perform user acceptance testing to their specific requirements. They are most familiar with those requirements and are best positioned to ensure they are met. Some differences are valid within a specification and require no action, whereas some are due to different maintenance releases of a standard used by various jurisdictions largely driven by their timeline for implementation. Despite variances in standards conformance, the use of a standard within a jurisdiction will ensure interoperability within that jurisdiction.

Recommendation	Response
	<p>Pan-Canadian interoperability can still be achieved and differences in standards can be mitigated by</p> <ul style="list-style-type: none"> <li>• ensuring the same standard is used for cross-jurisdictional interoperability, or</li> <li>• mapping to accommodate differences in the implementation of the standard.</li> </ul> <p>We believe that this is not only feasible but also practical and cost effective.</p>

### Reporting on results

**4.88** To ensure Parliament and Canadians have sufficient information about progress achieved, Infoway should report on the extent to which electronic health record systems have been adopted by health care professionals and are compliant with standards. (4.83–4.87)

**Infoway's response.** We agree with the recommendation, recognizing, however, that solution implementation and availability must be completed before adoption can occur. These major project initiatives often take 24 to 36 months to be fully implemented.

Infoway, in conjunction with the jurisdictions, will endeavour to develop measures on the extent to which EHR systems have been adopted by health care providers. Further, Infoway will work with jurisdictions to develop a standards compliance report.

**4.90** To ensure Parliament and Canadians have sufficient information about progress achieved, Infoway should report on results achieved compared with expected results and explain any difference. (4.89)

**Infoway's response.** We agree to report on variances between expected results and achievements related to the electronic health record goal line in our public reporting beginning with the 2009–10 Annual Report.

This will build on the Corporation's existing reporting on expected results and actual performance in its Annual Report (in the section entitled, Delivering Results: Performance Against Objectives). We provide members of Parliament (MPs) and Senators with copies of our Annual Report and Corporate Business Plan. Last year, we undertook an initiative (which we plan to repeat annually) to provide MPs and Senators with jurisdictional fact sheets to highlight EHR advancements within their respective region.

**Recommendation**

**4.93** To ensure Parliament and Canadians have sufficient information about progress achieved, Infoway should report on the results achieved for performance targets established for each core system of the electronic health record. (4.91–4.92)

**Response**

**Infoway's response.** We agree with the recommendation. The Corporation will need to finalize its work with the jurisdictions on both data availability and data quality, to ensure that additional reporting will be accurate. This will build on the Corporation's existing reports on the value, benefits, and advancement that electronic health record systems are delivering to Canadians through our proactive media relations efforts, corporate materials, and the Internet, as well as through hundreds of public presentations and speaking engagements.

**Being accountable to Parliament**

**4.101** To better fulfill its responsibility for monitoring Infoway's compliance with the funding agreements, Health Canada should fully develop and implement its monitoring framework. (4.97–4.100)

**Health Canada's response.** Health Canada agrees with the Auditor General's recommendation.

The Department recognizes the importance of monitoring Infoway's compliance with the funding agreements and has been monitoring its compliance since the first funding agreement in 2001. As of September 2009, the Department has developed a comprehensive framework to monitor Infoway's compliance more systematically. The framework includes an overview of Infoway's deliverables and activities for a given fiscal year, schedules with the timing of annual and ad hoc deliverables and activities, and a description of federal activities to support due diligence. The framework also includes 14 appendices that set out detailed procedures and tools used to support monitoring, including a risk assessment tool and checklists to foster consistency and transparency (such as factors to consider in reviewing the Annual Report), and procedures to be followed for specific events and activities (such as ministerial appointments to the Board). The framework will be updated periodically, as needed.

The Department welcomes the Auditor General's support for our approach to monitoring investments in Infoway.

# Report of the Auditor General of Canada to the House of Commons—Fall 2009

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Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**Chapter 5**  
Acquiring Military Vehicles for Use in Afghanistan



Office of the Auditor General of Canada



# 2009



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**Chapter 5**  
Acquiring Military Vehicles for Use in Afghanistan



Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises *Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters*. The main table of contents for the Report is found at the end of this publication.

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Chapter

# 5

Acquiring Military Vehicles for Use  
in Afghanistan



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# Acquiring Military Vehicles for Use in Afghanistan

## Main Points

### What we examined

Canada's military role in Afghanistan has been to contribute to international security and, in particular, to contribute to the stability of the area. National Defence has had to acquire new equipment urgently needed by the Canadian Forces to carry out their operations effectively and protect their personnel.

We examined four urgent projects, each costing over \$100 million, to acquire military vehicles that would improve operational capability and the protection of soldiers in Afghanistan. The projects involved replacement tanks, armoured patrol vehicles, armoured heavy support vehicles, and light armoured vehicles with remote weapon stations.

We examined how National Defence managed the projects to ensure that the acquisitions met government policies related to project management and that the vehicles it was purchasing would meet the Canadian Forces' urgent operational needs. We also examined how National Defence and Public Works and Government Services Canada (PWGSC) worked together to ensure that the contracting for the projects complied with government policies.

In addition, we looked at the analysis and challenge role played by the Treasury Board of Canada Secretariat when project and contract proposals were submitted for Treasury Board approval.

Audit work for this chapter was substantially completed on 29 May 2009.

### Why it's important

The Canadian Forces' current deployment to Kandahar, Afghanistan has increased the risk to military and civilian personnel caused by threats such as improvised explosive devices. Failure to respond adequately and rapidly to these threats can have serious consequences—for example, it could leave the troops at greater risk or force Canada to adjust the scope of its military operations in Afghanistan.

The ability to acquire new equipment rapidly is essential to help reduce the risks to personnel without compromising mission success.

## What we found

- In three of the four projects we examined, National Defence and PWGSC provided the Canadian Forces in Afghanistan with urgently needed vehicles that National Defence determined met the operational needs. The quick procurement and delivery of these protective vehicles, in the opinion of National Defence, contributed to the safeguarding of Canadian soldiers in Afghanistan. National Defence and PWGSC successfully implemented some strategies to fast-track these three contracting processes, which potentially could be applied to streamlining non-urgent acquisitions. For the two competitive contracting processes that we examined, we found that both processes were managed in compliance with applicable contracting policies. However, we found some problems with roles and responsibilities and information provided to senior officials.
- The four projects we examined were not managed in accordance with National Defence's project approval guide. Nor did the Department have a separate process in place, based for instance on the guide, to manage urgent acquisitions to ensure that the projects complied with government policies. Most of the required documentation was either not prepared or, if prepared, was deficient or prepared after the fact. Therefore, the documentation was of little value in helping to manage the projects or showing that the projects complied with government policies.
- While the Treasury Board of Canada Secretariat reviewed and challenged documents submitted by National Defence when it sought approval for the projects, some important issues were left unchallenged. For example, had officials asked why the required risk management strategies were not submitted, they would have learned that the strategies had not been prepared—a signal that the project management policies may not have been followed. For its part, National Defence did not disclose some important information needed for informed decision making, which made it difficult for the Secretariat to fulfill its challenge function. For instance, National Defence did not state that there was a high risk that it would not be able to replace all the old tanks in Afghanistan with the new Leopard 2 tanks, which was one of the project's goals.

**The entities have responded.** The entities agree with all of our recommendations. Their detailed responses follow the recommendations throughout the chapter.

## Introduction

### Canada's mission in Afghanistan

**5.1** In July 2003, under the auspices of the United Nations, Canada assumed command of the International Security Assistance Force (ISAF) in Kabul, Afghanistan. Its main focus during the first year of command was helping the Afghan Transitional Authority maintain a safe and secure environment in Kabul while the country developed and ratified a constitution. ISAF became a North Atlantic Treaty Organization (NATO) mission in August 2003.

**5.2** In the fall of 2005, the Canadian Forces moved its main contingent from Kabul to Kandahar so it could begin operations in Kandahar region in March 2006. In doing so, Canada assumed responsibility—along with its coalition and Afghan partners—for stabilization and security of a larger area. Canada has committed to its current role in Afghanistan until 2011.

**5.3** The Canadian Forces recognized that, when it deployed to the Kandahar region, its greatest threat would be from land mines and improvised explosive devices (IEDs). To counter these threats, the Canadian Forces has used increasingly heavily-armoured and blast-resistant equipment with the goal of providing better protection against IEDs.

### Military acquisitions for use in Afghanistan

**5.4** National Defence has acquired a number of military vehicles on an urgently required basis for use in Afghanistan. This is normal as no military can acquire equipment to meet all its possible needs. As well, the military has to make trade-offs to stay within budgets. Making urgent acquisitions can be challenging because military equipment may need to be manufactured or, when acquired, modified. In times of conflict, allied forces' demands for similar items may limit availability and have an effect on wait times. As a result, windows of opportunity are important in deciding what equipment to acquire.

**5.5** In 2005, the Canadian Forces planned to acquire equipment to prepare for its operations in Kandahar region as of March 2006. Since then, many more projects to acquire a wide range of equipment were launched. The equipment has included new protected vehicles, improved protection for current vehicles, helicopters, drone aircraft, and other systems to improve the safety of soldiers and reduce the threat posed by IEDs.

**5.6** So serious is the threat from IEDs that in 2008 when the House of Commons passed a motion calling for an extension of the Canadian military presence in Kandahar to July 2011, several conditions were attached, including the acquisition of medium-lift helicopters and drone aircraft in order to better protect Canadian troops from IEDs.

### Project management policies and guidelines

**5.7** The Treasury Board's Policy on the Management of Projects requires all federal departments to have sound internal policies, guidelines, and practices for the identification, planning, definition, approval, and implementation of projects. Departments are to ensure that projects follow standard project management principles, such as those set out in the Treasury Board's policies and the Project Management Institute's *A Guide to the Project Management Body of Knowledge* (PMBOK® Guide).

**5.8** National Defence has established its own project management framework that includes a Project Approval Guide. This Guide provides policy and procedural guidance on the approval process for projects, activities, and initiatives that require resource funding—including the acquisition of military equipment. The main focus of the Guide is to detail the internal decision-making processes to be followed and the project management practices to be employed to manage the project within approved resources.

### Roles and responsibilities for buying equipment

**5.9** Major defence equipment acquisition projects involve several departments. Exhibit 5.1 describes the roles of all the players involved.

Exhibit 5.1 The roles and responsibilities of federal organizations in acquiring equipment for National Defence

Organization	Roles and responsibilities
Cabinet	Ministers' forum for discussion and decision making. May provide policy approval in principle for some major Crown projects.
Privy Council Office	Provides advice on proposals to Cabinet. Assists departments in preparing proposals to Cabinet.
Treasury Board	As a statutory committee of Cabinet, approves policies in areas such as project management and contracting. Decides whether a project should be deemed a Major Crown Project. When a project is likely to exceed ministerial expenditure authority limits, approves such projects, allows the departments to enter into contracts, and may allow exemptions from Treasury Board policies.

**Exhibit 5.1 The roles and responsibilities of federal organizations in acquiring equipment for National Defence (cont'd)**

Organization	Roles and responsibilities
Treasury Board of Canada Secretariat	<p>As the Treasury Board's administrative arm, develops policies and guidance for the federal government on topics such as project management and contracting.</p> <p>Assists departments in preparing submissions to the Treasury Board.</p> <p>Analyzes and challenges departmental submissions.</p> <p>Provides recommendations and advice to the Treasury Board on project proposals.</p>
National Defence	<p>Initiates and manages acquisition projects.</p> <p>Defines project requirements.</p> <p>Analyzes and recommends options.</p> <p>Proposes a procurement strategy.</p> <p>Prepares statements of work and technical bid evaluation plans.</p> <p>Performs quality assurance, receives goods, and authorizes payments.</p>
Public Works and Government Services Canada	<p>Manages the contracting process.</p> <p>Conducts market analyses.</p> <p>Develops final procurement strategies.</p> <p>Prepares bid documents and conducts tendering processes.</p> <p>Awards contracts.</p>
Industry Canada	<p>Administers the Industrial Regional Benefit Policy, which provides a framework for linking federal defence procurement to long-term industrial and regional development in Canada. This is intended to ensure that socio-economic objectives are considered when a major defence acquisition is made.</p>

Source: Adapted from various Government of Canada documents

### Focus of the audit

**5.10** We conducted the audit to determine whether National Defence could demonstrate that the acquisition of four types of military vehicles for use in Afghanistan met operational needs, and that the vehicles were acquired in a timely manner. We also examined whether the contracting processes used by Public Works and Government Services Canada and National Defence complied with federal government contracting laws and regulations—and with Treasury Board policies—while meeting the unique time pressures linked to the purchases.

**5.11** In conducting this audit, we recognize that the Canadian Forces in Afghanistan is endangered by IEDs and other threats. We understand that the acquisitions we have audited were needed as quickly as possible to carry out operations and to enhance protection of Canadian personnel in Afghanistan. We took these facts into account in our assessments of what we found.

**5.12** The audit was limited to four vehicle acquisition projects that each cost more than \$100 million. Each project was deemed urgent by National Defence for the reasons mentioned above. Exhibit 5.2 describes these four vehicle projects. The audit did not examine Industrial and Regional Benefits.

**5.13** More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### Project management

#### National Defence's project management framework is consistent with Treasury Board policies

**5.14** Each of the four acquisition projects we examined was to be managed in accordance with the Treasury Board's policies and guidelines on capital plans, projects, and procurement. While the proposals linked to these purchases clearly conveyed the urgent nature of the projects, no exemptions from the Treasury Board's project management policies were sought or provided.

**5.15** The Treasury Board's project management policies require departments to establish sound internal policies, guidelines, and practices. As recommended by these policies, the practices contained in the Project Management Institute's *A Guide to the Project Management Body of Knowledge* (PMBOK® Guide) have been adopted by National Defence as its standard for project management.

**5.16** National Defence has established its Project Approval Guide (the Guide) as the principal source for policies and procedures on the approval process for projects. The Guide describes in detail the program decision documents that staff must prepare to obtain project approvals. It also provides some guidance on the practices to be employed for managing projects.

**5.17** We reviewed the contents of the Guide against the requirements contained in the Treasury Board's project management policies and found that they were consistent. We found that there was no separate process in the Guide to deal with urgent operational requirements (known as UORs), nor is there a specific project management framework for UORs. As a result, the Guide was the only source of criteria available to us in auditing these urgent projects. Based on this, we expected the Department, for each of the projects we audited, to have complied with the requirements of the Guide or to have senior management approve and document specific deviations.

## Exhibit 5.2 Four types of vehicle acquisitions were audited

Armoured Patrol Vehicle (RG-31)	Light Armoured Vehicle Remote Weapon Station (LAV RWS)	Armoured Heavy Support Vehicle System (AHSVS)	Leopard 2 Tank
 <p>RG-31s in a convoy in Afghanistan</p> <p>Date of project approval: October 2005</p> <p>Approved cost: \$175 million</p> <p>The purpose of this purchase was to provide the Canadian Forces with a better-protected patrol vehicle when it began operations in Kandahar region in February 2006. At the time, this purchase was the top priority of the Canadian Forces.</p> <p>One of National Defence's stated reasons for the project was to replace the G-Wagon—a small patrol vehicle that did not provide enough protection to personnel in Afghanistan. Another was to replace the Bison, a larger vehicle used to transport personnel.</p> <p>In buying the RG-31, the Department got a vehicle that includes a remote weapon station (RWS). This allows an operator to fire weapons from within the vehicle—using a monitor and joystick—while remaining protected.</p> <p>The Department bought 75 RG-31s under contract with General Dynamics Land Systems Canada (GDLS-Canada). They have been used in Afghanistan and for training in Canada.</p>	 <p>LAV RWS</p> <p>Dates of project approval: October 2006, March 2007, and April 2007</p> <p>Approved cost: \$118 million</p> <p>The purpose of this purchase was to produce a variation of the Canadian Forces' Light Armoured Vehicle III (LAV III) that would provide better protection against mines and IEDs. The LAV RWS would be used in the same manner as the existing LAV Infantry Section Carrier.</p> <p>Two key features of the new vehicle are a remote weapon station (RWS) and custom armour protection. Instead of the turret mounted on the standard LAV, the RWS reduces the vehicle's weight by several thousand pounds, which allows additional armour to be installed. Never-used chassis from the original LAVs are being used as the basis for producing 33 of the LAV with RWS.</p> <p>Under contracts with General Dynamics Land Systems Canada (GDLS-Canada) and Armatec, the vehicles are currently being produced for delivery in 2009.</p>	 <p>AHSVS transporting a damaged tank</p> <p>Date of project approval: October 2006</p> <p>Approved cost: \$169 million</p> <p>The purpose of this purchase was to replace the Heavy Logistic Wheeled Vehicle that was being used in Afghanistan with a vehicle better protected against the threat of improvised explosive devices (IEDs). It is mainly used to transport supplies and equipment.</p> <p>Ninety-five vehicles of various types, and related equipment, have been acquired under contract with DaimlerChrysler AG. These are currently used for operations in Afghanistan and for training in Canada. Two additional vehicles are still to be received as compensation for delivery delays.</p>	 <p>Leopard 2 Tank</p> <p>Date of project approval: March 2007</p> <p>Approved cost: \$650 million</p> <p>The first goal was to lease 20 Leopard 2 tanks and two special-purpose armoured vehicles from Germany in order to meet the urgent need to replace the Leopard 1 tanks that had been deployed to Afghanistan.</p> <p>The second goal was to purchase 100 Leopard 2 tanks, including special-purpose armoured vehicles from the Netherlands, to provide immediate training vehicles for troops in Canada and a longer-term tank capability.</p> <p>Twenty tanks were borrowed (not leased as originally approved by the government) from Germany. These arrived in Afghanistan, for the most part, in late 2007.</p> <p>One hundred tanks were purchased. Under a separate authority, National Defence purchased an additional 15 used tanks that it intends to use for spare parts. The project is still in progress.</p>

Source: Department of National Defence

**5.18** National Defence's Guide requires projects to be managed in phases, with key decision points along the way. Compliance with the Guide requires that many steps and key documents—meeting both Treasury Board requirements and National Defence's internal decision-making needs—be completed. Projects at National Defence begin with a clear statement and agreement by senior management on the capability deficiency to be resolved. Once this is clearly understood, options are to be identified and analyzed, and an informed decision made. Based on this decision, the project is supposed to be planned in detail before it is implemented.

**National Defence did not meet its own project approval guidelines for these acquisitions**

**5.19** As outlined in Exhibit 5.3, we found that for the four projects we audited, most of the required documents were not prepared or, if prepared, they were either deficient or prepared after the fact and thus of little value in helping to manage the projects or in showing that project management met Treasury Board requirements. In such cases, National Defence did not document why the required documentation was not prepared.

**Exhibit 5.3 National Defence did not meet most requirements of its Project Approval Guide when it acquired urgently needed equipment**

Required Document	Purpose	Armoured Patrol Vehicle (RG-31)	Armoured Heavy Support Vehicle System (AHSVS)	Light Armoured Vehicle Remote Weapon Station (LAV RWS)	Leopard 2 Tank
<b>Identification Phase</b>					
Capability Deficiency	Provides a clear and agreed-upon statement of the capability deficiency to be resolved by the project.	●	●	○	●
Broad Options Analysis	Identifies a broad range of potential solutions.	○	●	○	●
Identification Phase Approval	Gives internal approval to proceed with planning and provides the total anticipated project cost.	N/A	○	○	●
<b>Options Analysis Phase</b>					
Project Charter	A mandatory project document to be completed as early as possible, the charter establishes the mandate for how the project will be organized.	●	○	●	○

## Exhibit 5.3 National Defence did not meet most requirements of its Project Approval Guide when it acquired urgently needed equipment (cont'd)

Required Document	Purpose	Armoured Patrol Vehicle (RG-31)	Armoured Heavy Support Vehicle System (AHSVS)	Light Armoured Vehicle Remote Weapon Station (LAV RWS)	Leopard 2 Tank
Options Analysis	Provides a detailed comparison including costs of alternatives.	●	●	○	○
Project Profile and Risk Assessment	Outlines the risks associated with a project and the management strategies to deal with them. It is to be provided to the Treasury Board of Canada Secretariat in advance of making submissions.	○	○	○	○
Preliminary Project Approval	Allows the Department to obtain internal approval in principle for the preferred option at the estimated cost and to proceed to the next phase.	N/A	N/A	N/A	○
<b>Definition Phase</b>					
Statement of Operational Requirement	Creates a statement of the characteristics that must be delivered for the project to satisfy the capability deficiency.	●	●	○	●
Substantive Cost Estimate	This is a quality cost estimate that takes into account all project objectives and deliverables.	○	●	○	○
Project Management Plan	Defines how the project is to be executed, monitored, controlled, and closed.	○	○	○	○
Effective Project Approval	Grants internal approval for the selected option and allows the project to proceed to the next phase.	●	○	○	○
<b>Implementation Phase</b>					
Initial Operational Capability Certificate	Shows attainment of the minimum ability to effectively employ a capability.	●	○	N/A	○
Full Operational Capability Certificate	Shows full attainment of the ability to effectively employ a capability.	●	N/A	N/A	N/A
Input into the Capability Investment Database	Throughout the project, key information is to be entered into this database.	●	●	○	●

● Met the Guide's requirements

○ Met some of the Guide's requirements

○ Required document was not prepared or had significant deficiencies

N/A—Does not apply or is not yet required

Source: The list of documents required and their purpose was adapted from the Project Approval Guide, Department of National Defence. The assessments were prepared by the Office of the Auditor General of Canada.

**5.20** The problem National Defence faced is that its Guide is geared to projects that develop over time, in phases. The four projects we examined simply did not progress in clear stages. Instead, their phases tended to be completed all at once or were compressed into a short period of time. Because the planning of these projects was done so quickly, officials told us that they could simply not prepare all the documentation required by the Guide and also get the job done. In the absence of a framework for dealing with UORs, they were left to decide on their own what documents to prepare.

**5.21** The Department has recognized the need to focus on UORs and, in 2008, it established a UOR policy. However, that policy only describes who is responsible for identifying these needs within National Defence. It does not set out a specific project management framework for UORs. Such a framework is important for the following reasons:

- First, a framework will ensure that National Defence is able to demonstrate managerial oversight and decision making. In our audit work, we found that key advisory and decision-making bodies like the Senior Review Board and the Program Management Board either did not provide advice and make decisions as required under the Guide or made them much later, after the key decisions had been made. In addition, we found instances where the internal document used to inform decision makers, known as the synopsis sheet, was either not prepared or lacked important information for decision making. While it is clear that decisions were made and that, based on those decisions, actions were taken, the Department had not documented the decisions and its rationale in the expected manner. The Department informed us that, since the time of these projects, it has made changes to how such decision-making documents are prepared, with the goal of using a common document for both internal decisions and Treasury Board submissions, as much as possible.
- Second, a framework will help ensure that sound project management principles are applied and that Treasury Board policies are followed. For example, with the tank replacement project, plans were prepared on the basis that the Leopard 2 tanks to be purchased would be fitted with important implements such as mine ploughs and bulldozer blades. No research was done to find out if these implements could actually be fitted on the tanks. Later, it was determined that it would be more difficult and time-consuming than originally expected to install them on the purchased tanks. As a result, National Defence has now transferred this requirement into a related project—the Force

Mobility Enhancement Project. This project, estimated at \$376 million, will also provide special-purpose Leopard 2 armoured vehicles that National Defence could not afford within the funding approved for the Tank Replacement Project.

- Finally, a framework will help National Defence demonstrate that it has chosen the right piece of equipment to address the capability gap it is trying to fill. The Guide and Treasury Board policies require all projects to conduct an options analysis with a thorough analysis of the preferred option. This allows for informed decision making. It also allows those who are making decisions to consider trade-offs among features such as performance, complexity to implement, and cost. We found deficiencies of varying degrees in the options analysis for all four projects.

**5.22 Recommendation.** National Defence, in consultation with the Treasury Board of Canada Secretariat, should examine its Project Approval Guide to determine how the Department can manage the process of acquiring urgently needed equipment in a timely manner while respecting sound project management principles and Treasury Board policies.

**National Defence's response.** Agreed. National Defence will review the current project approval guidance with a view to align the present documentation requirements for procurement greater than \$1 million with the project approval framework as outlined in the Project Approval Guide. The Treasury Board of Canada Secretariat and other stakeholders will be consulted in order to achieve the correct balance between urgency and appropriate levels of documentation to support decision-making rationale. The National Defence group responsible for materiel will be consulted to ensure that coordination of the Guide and Project Management Manual meets the requirements.

<b>Contracting</b>	<b>The contracting processes we examined complied with government policies</b>
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**5.23** The purchase of military equipment must be carried out in compliance with all laws, regulations, and Treasury Board policies that apply to government purchases. Public Works and Government Services Canada (PWGSC) maintains what is known as the Supply Manual, which describes and guides such activities. It contains relevant laws and regulations, as well as government and department policies.

**5.24** While PWGSC is the contracting authority, it shares responsibility for some aspects of the acquisition process with National Defence. The way responsibilities are divided is set out in a

memorandum of understanding (MOU) between the two departments and published in the Supply Manual.

**5.25** Compliance with contracting laws, regulations, and policies is essential. It helps ensure that acquisitions meet real needs, provide the best value for money, promote competition (with some exceptions), ensure fair and equal treatment of potential suppliers, and maintain the accountability and integrity of the contracting process. While a number of acquisition strategies are available under government policies, a competitive process is deemed to be the best way to achieve these goals.

**5.26** Our audit examined the Armoured Patrol Vehicle (RG-31) and the Armoured Heavy Support Vehicle System (AHSVS) acquisitions, both managed as competitive projects, to determine whether PWGSC and National Defence had managed them in compliance with applicable contracting policies. To determine this, we reviewed PWGSC acquisition files and National Defence project files. We also conducted interviews with department officials and some company representatives.

**5.27** While we found a few problems with the contracting processes for these vehicles, overall both processes were managed in a way that complied with the applicable contracting policies. As well, the contracting processes were completed in a timely manner.

#### **Roles and responsibilities related to contracting for the Armoured Patrol Vehicle (RG-31) were not followed**

**5.28** During the summer of 2005, to prepare for the start of operations in the Kandahar region as of February 2006, National Defence assembled a list of critical equipment it needed to buy. The most important item on this list was an Armoured Patrol Vehicle (RG-31) to carry out operations while protecting troops against improvised explosive devices (IEDs) and land mines. Analysis prepared by the Canadian Forces showed that without this vehicle, the lives of Canadian soldiers would be at extreme risk or the scope of operations would need to be adjusted.

**5.29** In August 2005, National Defence began to contact companies to obtain technical specifications, price, and delivery times of vehicles on the market. We found that National Defence informed one potential supplier, which responded to the survey, that its product would not meet the Department's need. The supplier complained that if National Defence had clearly stated its requirements, it would not have spent time and effort to provide National Defence with information about its product.

**5.30** Based on the MOU between National Defence and PWGSC (described in paragraph 5.24), this type of survey is not National Defence's responsibility. Even though National Defence contacted PWGSC in mid-August, it nonetheless continued to conduct its survey.

**5.31** In early September 2005, National Defence decided it wanted to sole-source the purchase of 50 vehicles called the RG-31. The Department believed that the RG-31 would meet its needs and that, based on the information it had collected, only one company could meet its essential technical requirements and deliver quickly.

**5.32** According to Department documents, in September 2005, the supplier of the RG-31 advised National Defence that it had held a place for a Canadian order and could begin delivery in March 2006 but the contract had to be signed by late October 2005. After that date, according to these documents, the company told the Department that the RG-31 might not be available within this time frame due to orders from other militaries. National Defence informed PWGSC of these facts. It also informed PWGSC that it preferred to use a sole-source contract for this acquisition. PWGSC believed that a competitive process could fulfill National Defence's urgent requirement. Nonetheless, it asked National Defence to present its reasons for requesting an exception. Under the federal government's contracting regulations, competitive bids must be sought before a contract is entered into, unless the project meets one of the reasons for an exemption set out in the regulations (Exhibit 5.4). Although National Defence was concerned that a competitive process might cause it to lose a chance to acquire a suitable vehicle that the supplier could begin delivering as early as March 2006, the beginning of operations in Kandahar, it did not provide the rationale for a sole-source contract.

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#### Exhibit 5.4 General reasons for exceptions to competitive processes

Before any contract is entered into, the contracting authority shall solicit bids. However, a contracting authority may enter into a sole-source contract without soliciting bids where any one of the following criteria is met:

- The need is one of pressing emergency in which delay would be injurious to the public interest.
- The estimated expenditure does not exceed certain limits depending on the type of acquisition.
- The nature of the work is such that it would not be in the public interest to solicit bids.
- Only one company is capable of performing the contract.

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Source: *Government Contracts Regulations*

**5.33** Before it could decide on the type of contracting strategy to pursue, PWGSC needed to assess the competitive environment for armoured patrol vehicles. It could not rely on the informal price and availability survey completed by National Defence, so it invited interested suppliers to respond to its own price and availability request. Among other things, it asked suppliers if they could meet the stated requirement of delivering the first 25 vehicles within seven months after the placement of orders—which we calculate would be May 2006, at the earliest. Based on its assessment, PWGSC found that three firms would be able to meet the technical requirements set out by National Defence and that a competitive environment existed. However, the ability of suppliers to meet the seven-month delivery requirement was not taken into account at this stage. Our review of PWGSC's documentation found that only one supplier showed that it could meet the required delivery schedule. In our opinion, because the purchase was urgently needed, the ability of potential suppliers to deliver vehicles to Afghanistan in accordance with this key requirement should have been taken into account at that stage.

**5.34** At the beginning of October 2005, the government granted PWGSC advance authority to contract for 50 armoured patrol vehicles. This authority did not specify whether the contract had to be competitive or sole-sourced.

**5.35** The three companies that PWGSC assessed as meeting the technical requirements set out in the price and availability request were invited to prepare bids. PWGSC developed a compressed competitive procurement schedule showing that a contract with the successful bidder be awarded at the end of October 2005. This was done to meet National Defence's goal that an order be placed for armoured patrol vehicles, by late October 2005 so that it would not miss the opportunity to purchase the RG-31, should it be determined the best vehicle.

**5.36** Due to the compressed schedule, PWGSC was unable to prepare many of the required documents before it issued the request for proposal (RFP). PWGSC notified the bidders that these documents would be provided in phases and finalized them during the bidding period. In fact, some changes were still being made a few days before the end of the bidding period, based on new information National Defence was giving PWGSC. Normally, this documentation is ready before the competition begins. All of this had an impact. For example, the weighting related to the requirements was provided to the companies midway in the bidding process. At that point, the companies learned that the weighting for delivery favoured delivery beginning in

February 2006. The two companies that did not bid expressed concerns about changes made during the competitive process, although one of them only communicated its concerns on the day of bid closing. One of the companies stated that since the weighting favoured earlier delivery, it would not be able to compete. It felt that this weighting did not reflect its understanding that according to PWGSC's price and availability request, delivery of vehicles would not be required to begin until seven months after receipt of order.

**5.37** At the end of the bidding process, only the vendor of the RG-31 submitted a bid. However, PWGSC and National Defence determined that the bid was non-compliant. Based on PWGSC policies, when no compliant bids are received, the competition should be cancelled and re-tendered.

**5.38** PWGSC cancelled the competitive process but did not consider re-tendering to be an option because, according to documents, it would have caused an unacceptable delay that might have compromised mission success and personnel safety. PWGSC and National Defence conducted a clarification process with the bidder and concluded that the proposal met all the requirements to their satisfaction. As a result, PWGSC decided to sign the contract based on government contracting regulations, which state that when the need is "one of pressing emergency in which delay would be injurious to the public interest" (Exhibit 5.4), it can issue a sole-source contract. The contract was signed on 31 October 2005.

**5.39** This process successfully provided National Defence with the vehicle it sought, in a timely manner. However, time was wasted when National Defence failed to involve PWGSC early in the process and PWGSC had to conduct another price and availability request. Although PWGSC promoted competition throughout the acquisition process, an exception under the government's contracting regulations had to be used to finalize it.

**5.40 Recommendation.** For urgent operational requirements, National Defence should involve Public Works and Government Services Canada (PWGSC) early, in accordance with agreed upon roles and responsibilities, so that effective procurement strategies can be implemented to meet operational objectives.

**National Defence's response.** Agreed. Lessons learned from recent procurements, and opportunities for making process and other improvements, are being explored in some depth as part of a number of ongoing government reviews of defence procurement. Measures to

further improve the already close collaboration between National Defence and PWGSC, while respecting the statutory responsibilities of the respective departments, are being examined as part of these reviews.

In addition, PWGSC Acquisitions Branch now has full membership in several standing and ad hoc National Defence bodies that oversee the planning of future acquisitions, both routine and urgent.

**Incomplete information was provided to senior officials on the AHSVS contracting**

**5.41** In October 2006, based on a competitive procurement strategy, the government granted the Minister of Public Works and Government Services Canada (PWGSC) advance authority to enter into a contract to buy 82 armoured heavy support vehicle systems (AHSVS) of various types, as well as related support and an option to acquire additional vehicles and equipment, for a total cost of \$169 million. The contract was signed approximately six months later on 30 March 2007.

**5.42** PWGSC published a notice that the Government of Canada had a requirement for AHSVSs and companies could obtain a copy of the price and availability request. The price and availability requests that were completed by interested companies helped National Defence set its requirements and helped PWGSC develop and issue a solicitation of interest and qualification (SOIQ). According to the procurement strategy outlined in PWGSC's request to government asking for advance authority to enter into a contract, only suppliers prequalified using the SOIQ were to be sent a formal RFP. PWGSC informed us that the SOIQ was intended to evaluate potential suppliers against a set of 63 high-level mandatory protection and performance requirements whereas the RFP would include the full set of requirements. However, none of the participating companies demonstrated that they could meet the SOIQ requirements. At this point, the original procurement plan could not be followed. This was a very serious situation because PWGSC would not be able to proceed with the purchase of vehicles that National Defence said it urgently needed to protect its troops in Afghanistan against IEDs. According to PWGSC's supply manual, when there is a significant change in the procurement strategy, the procurement plan should be revised and approved at the Assistant Deputy Minister (ADM) level. In our opinion, at this point the plan should have been revised. However, PWGSC maintains that the result of the SOIQ did not represent a change in the competitive procurement strategy approved by the government, and therefore ADM-level approval of a revised procurement plan was not required, since a competitive process was still conducted.

**5.43** Instead, PWGSC and National Defence officials visited all of the suppliers who had responded to the SOIQ, and some that had not. The visits were conducted, with a view, among other things, to reassessing the requirements for the vehicles based on vehicles the companies could actually supply. The mandatory requirements of the SOIQ were modified and a total of 172 were set out in the RFP. National Defence informed us that changes to the mandatory requirements were partially based on information it had collected during its visits with companies, and that it believed these requirements could be met. However, we were unable to identify what changes were made to the requirements as a result of the field visits because National Defence did not prepare detailed records of the visits. PWGSC issued an RFP to six companies. Although three of them submitted complete proposals, only one was able to meet all the requirements. According to PWGSC's evaluation documents, the two other bidders did not demonstrate that they could meet a significant number of the mandatory requirements.

**5.44** When the Minister of Public Works and Government Services Canada was asked to authorize the issuance of the contract to the winner of this competition, the memorandum outlined, among other things, highlights of the contracting process. It clearly stated that "the award is in accordance with the strategy outlined in the submission" that was approved by the government. In our opinion, this memorandum, rather than stating that the award was in accordance with the procurement strategy, should have informed the Minister that there had been a significant departure from the strategy when no companies qualified during the SOIQ phase. PWGSC has acknowledged that it could have provided more details in the memorandum but, in its opinion, it complied with the overall procurement strategy, which was to have a competitive procurement process.

**5.45** In addition, the government required PWGSC to report to the Treasury Board of Canada Secretariat after the contract was awarded. This report was to contain information that included confirmation that the acquisition was carried out in accordance with the procurement strategy as outlined in government documents. We found that PWGSC did not specifically state whether or not the acquisition was carried out in accordance with the procurement strategy and did not disclose that the procurement strategy was modified when none of the companies was found compliant with the SOIQ's requirements. In our opinion, PWGSC should have disclosed this information. PWGSC informed us that more detailed information could have been provided in its report.

**5.46** We also found some problems with the way these contracts were administered. We found that National Defence accepted delivery of a truck not included in the original contract. This should not have happened until the contract was amended in writing. Doing so was not in accordance with the government's contracting policy. We also found that National Defence paid twice for the same vehicle and that this error was not discovered until two months later when the supplier notified the Department of this fact. National Defence has informed us that the amount paid in error has since been credited to the Department's account with the vendor.

#### **PWGSC and National Defence worked together to meet urgent needs**

**5.47** We expected National Defence and PWGSC to work together to ensure effective contracting as they are responsible for the procurement process. We found that PWGSC and National Defence formed integrated teams dedicated to administering the contracting process. Documents presented to government were prepared jointly. Our review of files showed that the two departments worked quickly and together to resolve problems when procurement strategies were not proceeding as planned. They cooperated to ensure that the allocation of PWGSC's limited staff reflected the priorities of National Defence. We believe that there are some positive lessons to be learned from the way in which the two departments worked together that could be applied to the regular contracting process.

**5.48 Recommendation.** Public Works and Government Services Canada (PWGSC) and National Defence should examine lessons learned in contracting for urgent operational requirements that could be applied to help speed up the regular procurement process.

**National Defence's response.** Agreed. National Defence continues to work with PWGSC and other key partners to develop a whole-of-government approach to improve and accelerate military procurement. Lessons learned from recent projects related to urgent operational requirements are being evaluated and contributing to these ongoing efforts. In particular, National Defence is working with PWGSC to develop a comprehensive defence procurement process model that will help optimize the process for both routine and urgent military acquisitions. To this end, National Defence has largely completed the initial mapping of its current internal processes and plans to have the full National Defence model completed by 31 March 2010.

**PWGSC's response.** Agreed. The observations noted in the chapter regarding the implementation of strategies to fast track the procurement and delivery of the urgently required military vehicles, while respecting government contracting policies and objectives, reflect the success of these PWGSC military procurement initiatives.

PWGSC will conduct a lessons-learned exercise to review the procurement activities undertaken during the urgent acquisition of the four types of military vehicles destined for Afghanistan, examined during this audit. The lessons learned will highlight the steps, activities, actions, and processes that led to the quick and timely acquisition of these vehicles.

The lessons learned will be completed by the end of October 2009 and, where applicable, effective practices identified through the lessons-learned exercises would be considered for implementation as part of the Department's existing initiative aimed at improving the efficiency of major military and other Government of Canada procurements.

## Meeting operational needs

**5.49** We examined whether National Defence could demonstrate that the four types of vehicles that were subjects of our audit

- adequately addressed the capability deficiencies identified by the Department,
- met the Department's performance expectations, and
- could be properly maintained in Afghanistan.

### The armoured patrol vehicles (RG-31s) are meeting operational needs

**5.50** National Defence's reasons for purchasing the Armoured Patrol Vehicle (RG-31) focused on solving two problems:

- replacing the G-Wagon because it was inadequately protected against the threats that soldiers faced in Afghanistan, and
- providing protected transport for personnel.

**5.51** Based on National Defence's assessments, the mine-resistant vehicle it bought (the RG-31) is saving lives. When the vehicle was first deployed in Afghanistan, it had mechanical problems and a shortage of spare parts that affected its availability. We found that these problems had been resolved. In February 2008, the Chief of Land Staff certified that the project met its full operational capability, with the exception of some related equipment that was yet to be purchased.

**5.52** Normally, equipment is tested before it is used on deployments. But due to National Defence's urgent need, the RG-31s were delivered directly to Afghanistan without normal testing. The mission quickly found several safety and performance shortfalls and the Department corrected these problems.

**5.53** We also found that the initial purchase of 50 RG-31s provided National Defence with fewer vehicles than it needed for operations. When we compared the number of RG-31s that it bought to the detailed military analysis of the number needed—including those needed for training—we found that the number needed was more than the number the Department purchased. None of the departmental decision documents we reviewed explained the reasons for this difference. However, we were informed that this difference was due to funding limits.

**5.54** The contract included an option to buy 25 more vehicles, based on National Defence's estimate of potential future losses. In May 2006, the Department exercised this option and these vehicles were immediately placed into operations. The total number of vehicles was still less than the number shown as required in the original military analysis. In addition, RG-31 losses are not being replaced.

**5.55** We found that the RG-31s were delivered to Afghanistan before the target date contained in the Department's documents to the government. Even though the acquisition was made quickly, it was not possible to have full delivery in Kandahar before the start of operations in March 2006. Consequently, National Defence considered short-term options, including borrowing RG-31s from Canada's allies. National Defence decided to continue using its G-Wagons with additional armour protection as an interim measure.

**5.56** Even though the RG-31 has had a few problems, National Defence has concluded that the vehicle met the early operational needs of the mission.

### The AHSVS is meeting operational needs

**Serviceability**—The number of pieces of equipment ready to be used for their intended purpose from among those available. An item is not serviceable if it needs maintenance or repair. For example, if 10 trucks were available, of which 7 could be put into service and 3 were undergoing repair, the serviceability rate would be 70 percent.

**5.57** The Armoured Heavy Support Vehicle System (AHSVS) has successfully met the Department's goal of replacing its heavy logistic wheeled vehicles. The Commander of Task Force Afghanistan reported internally that the AHSVS has been well received. Our analysis of data found that the AHSVS has had a high serviceability rate—higher than the vehicle it replaced.

**5.58** We found that the AHSVS project delivered vehicles to Afghanistan about six months later than the original target date. A number of factors contributed to this delay. First, the contract was entered into two months later than planned because the procurement strategy took longer than expected. Second, the negotiated delivery schedule in the contract was not aligned with the original planned schedule. Third, production was delayed because a sub-contractor that produced the armoured cab portion of the truck encountered a shortage of steel. To compensate for this production delay, the supplier will provide National Defence with two additional vehicles. Our audit did not identify any significant impact on operations as a result of these delays.

**5.59** The Canadian Forces informed us that the AHSVS project has achieved its overall intent of replacing almost all of the heavy logistic wheeled vehicles used outside the protection of the military bases in Afghanistan.

**5.60** While not a stated capability deficiency that the AHSVS project was expected to resolve, National Defence acquired passenger-carrying modules for the AHSVS to help resolve a long-standing need to transport personnel in Afghanistan using protected vehicles. These were requested a month after the original contract was signed, by exercising an option in the contract. However, the availability of the passenger modules was limited at first by serviceability issues. The Department informed us that these issues are now resolved.

**5.61** The transportation of personnel between sites was not a new issue. The Department had sought government approval three times to resolve the problem. It should have been addressed by the Armoured Patrol Vehicle (RG-31) project. Based on a document from National Defence to government, the issue was also supposed to be addressed by the Light Armoured Vehicle Remote Weapon Station (LAV RWS) project rather than the AHSVS project, which ultimately acquired passenger-carrying modules. Finally, the Army now plans to use vehicles bought as part of another project to provide troop transport. In fact, none of the projects examined in this audit entirely fulfilled this capability gap as expected.

#### **The Tank Replacement Project did not meet all of the most urgent needs**

**5.62** The Tank Replacement Project consists of two parts. The first part was the most urgent. It was to borrow 20 Leopard 2 tanks and 2 armoured special purpose vehicles from Germany to replace all the old Leopard 1 tanks being used by the Canadian Forces in

Afghanistan. The second part was intended to equip the Army with a fleet of up to 82 Leopard 2 tanks and 18 special purpose armoured vehicles. The Leopard 2 is a modern tank that provides the Canadian Forces in Afghanistan with a high level of protection from land mines and improvised explosive devices (IEDs). It also has a powerful direct fire capability.

**5.63** Based on the Department's assessments, the borrowed Leopard 2 tanks have been deployed to Afghanistan and are saving lives.

However, we found that the tanks have not replaced all of the older Leopard 1 tanks in Afghanistan because the Leopard 2 tanks cannot be fitted with the Department's land mine ploughs, bulldozer blades, and mine rollers. These implements are essential to overcome obstacles and mitigate the threat posed by IEDs. As a result, the mission in Afghanistan continues to use several of the Leopard 1 tanks.

**5.64** In early 2008, the Department began work to find a way of fitting mine rollers to the borrowed Leopard 2 tanks. We were informed that work on this issue is ongoing.

**5.65** Our audit found that soon after deployment, a portion of the new tank fleet could not be used due to equipment failure. This problem was compounded by a shortage of parts. While normally considered a last resort, Task Force Afghanistan almost immediately began taking parts from tanks on site in Afghanistan and from tanks that National Defence had bought for troop training in Canada in order to make the necessary repairs. Despite these challenges, the Canadian Expeditionary Command informed us that it is satisfied with the level of serviceability of this equipment.

**5.66** The stated goal of the tank replacement project was to have all the borrowed tanks ready for use in Afghanistan by the end of July 2007. We found that National Defence was unable to meet this goal and it was not until the end of August 2007 that the first four tanks and two special-purpose armoured vehicles were delivered to Afghanistan. Not until mid-October 2007 was the Canadian Expeditionary Command satisfied that everything was in place to permit their use. Most of the remaining tanks became available for operations in Afghanistan by the end of December 2007.

The Canadian Expeditionary Command informed us that, despite the urgent need to have the tanks available by July 2007, it was not aware of any negative impact on operations when this goal was not met. One of the reasons for this was that the operation was able to continue using the old Leopard 1 tanks.

**5.67** It should be noted that while there had been slippages in the project, senior officials recognized from the outset that the schedule was ambitious and acknowledged that an extraordinary amount of work had been accomplished in a short period of time by all involved.

**5.68** One of the reasons National Defence used in support of its bid to purchase 100 Leopard 2 tanks from the Netherlands was to have 20 of these tanks immediately available to train soldiers in Canada, as they were similar to the borrowed tanks being used by the Canadian Forces in Afghanistan. However, these training tanks will remain in Europe to be swapped for the borrowed German tanks that would otherwise have been taken from Afghanistan and returned to Germany by September 2009. These tanks will need to be modified to the same specifications as the borrowed tanks and since these have been cannibalized for spare parts, those parts will need to be replaced while the modifications are taking place. These actions will provide Canada with Leopard 2 tanks for use in operations until the recently purchased tanks are upgraded. However, as a result, Canadian soldiers are being sent to train with the German army, creating additional costs and inefficiencies. In addition, because of the cap on funding for upgrading the Leopard 2 tanks, National Defence will not be able to upgrade all the tanks to the desired level. The result is that the training fleet will consist of a different model of tank than the deployment fleet—a situation that the Canadian Forces considers less than ideal.

**5.69** We found that National Defence now expects to be able to fully employ the purchased tanks almost two years later than originally planned. This is due to, among other things, delays in conducting a feasibility study to help plan the upgrades to the new tanks. Documentation that we obtained from Public Works and Government Services Canada (PWGSC) shows that it issued and then cancelled a request for proposal (RFP), thus preventing National Defence from entering into a contract with the Original Equipment Manufacturer (OEM) to gather the information required for planning the modifications. The reason documented by PWGSC was that this would prevent the OEM from gaining any advantage in subsequent contracting processes related to the tanks. National Defence also informed us that PWGSC prevented it from contacting the OEM. As noted earlier, the project will not be installing implements on the tanks. A new project has begun, which will include the requirement to deliver this capability.

### The LAV RWS project planning underestimated training requirements

**5.70** When the LAV RWS project was approved, National Defence did not know the number of vehicles that would ultimately be available for operations in Afghanistan, as training requirements had not been adequately taken into account. Project planning documents show that the Department initially believed that because the new vehicle was so similar to the LAV III, troops would need only minimal additional training to use the new vehicle. The planning documents did not indicate how many LAV RWS, if any, would be required for training. Two years later it became clear to the Department that a higher degree of training was needed. Consequently, of the 33 vehicles being built, 15 will be kept in Canada for training.

**5.71** The original project schedule stated that the vehicles would be ready for use in Afghanistan by February 2008. However, there have been delays. Compared to the three other projects we audited, this project is taking the longest to deliver (Exhibit 5.5). As of June 2009, this project has yet to provide vehicles to Afghanistan. The Department now plans to field the vehicles sometime later in 2009. We found that the delay is the result of the complexity of this project. This has had an impact on the Canadian Forces' training plans and armoured vehicle fleet management for the mission in Afghanistan.

#### Exhibit 5.5 Project timelines have varied considerably

Type of Vehicle	Time from government approval to date first vehicle was available for use in Afghanistan
Armoured Patrol Vehicle (RG-31)	5 months
Leopard 2 Tank	7 months
Armoured Heavy Support Vehicle System (AHSVS)	16 months
Light Armoured Vehicle Remote Weapon Station (LAV RWS)	32 months as of June 2009 (yet to be fielded)

Source: Department of National Defence

**5.72 Recommendation.** When National Defence plans urgent acquisitions, it should rigorously assess training requirements to ensure that there are a sufficient number of vehicles to meet training needs without reducing the number dedicated for operations.

**National Defence's response.** Agreed. In an effort to mitigate the risks associated with the aggressive processing of an unforeseen operational requirement, the Land Staff has embraced a revised strategy

across two broad fronts designed to more effectively address key project linkages such as training. First, abbreviated Capability Development assessments better define what is required to build, generate, employ, and sustain any given capability. With respect to training, the Directorate of Army Training, as well as Corps Schools/Centres of Excellence, play an increasing role in ascertaining what is required to train personnel for an emerging capability. On the second front, Army staffs closely shepherd training stocks once an unforeseen operational requirement capability is fielded. This typically involves a synchronized cycle whereby equipment and/or personnel are moved to facilitate the enhanced training of a unit or units for increased readiness in preparation for operations.

## Oversight by the Treasury Board of Canada Secretariat

### The government approval process depends on good information

**5.73** When approving projects, the government makes decisions based on the information contained in documents it receives from government departments. The quality of this information is important for informed decision making, and departments are responsible for the content of these documents, including their accuracy. The Treasury Board of Canada Secretariat plays an oversight role in this decision-making process by performing a challenge and quality assurance function on draft documents and providing recommendations to government. This includes a review of the documents for consistency with government policy and department authorities. The Secretariat also provides feedback and advice to departments on draft documents.

**5.74** Our audit examined the challenge and quality assurance roles played by the Secretariat for the projects we audited. We interviewed its officials and reviewed files that the Secretariat provided to us.

**5.75** Officials at the Secretariat told us that the challenge function is largely an oral process with little written documentation. The quality assurance role is based mainly on the information presented in the documentation itself, and, therefore, in our view, it has its limits. The analysts at the Secretariat exercise due diligence by challenging the contents of draft documents based on compliance with Treasury Board policy and department authorities. In doing so, they use their judgment and knowledge of the department and their perception of risk. They also help departments write clear and concise documents to government.

**5.76** Documentation we collected during the audit shows that the Secretariat reviewed and challenged submissions. We found that its officials met with department officials to discuss their draft government

documents and to be briefed on topics at hand. Questions were asked and clarification sought. For instance, we found that the Secretariat asked National Defence to provide justification for including an option to purchase 25 more vehicles in the RG-31 contract. The Secretariat also challenged National Defence on whether it fully understood the long-term cost implications of the tank replacement project. However, we found that with respect to these four projects, some important issues were not challenged by the Secretariat, and National Defence did not disclose all known relevant information.

**5.77** For two of these urgent projects, we examined whether the Secretariat had considered whether the projects could actually be managed in a manner that would respect the Treasury Board's project management policies. We found that it had not.

**5.78** We also found that National Defence did not submit risk management strategies, known as the Project Profile and Risk Assessment (PPRA), to the Secretariat for two of the projects in our audit. This document is supposed to be provided to the Secretariat before draft submissions are prepared. Its purpose is to show that the Department has anticipated the possible risks related to the project and has put in place mitigation strategies to deal with them. If the Secretariat had asked about the missing PPRA, it would have learned that they had not been prepared for two of the projects. This would have given the Secretariat an indication that normal project management practices were not being followed.

**5.79** For the Light Armoured Vehicle Remote Weapon Station (LAV RWS) project, when National Defence informed the Secretariat that there would be delays and when it sought a second project approval for an additional \$55 million, thus doubling the total cost of the vehicles to more than \$100 million, the Secretariat did not challenge the Department as to whether this project remained the best option to deliver the needed capabilities and could still be considered urgent.

#### **National Defence did not disclose all relevant information**

**5.80** Departments are expected to disclose all relevant information related to their submissions to government. Without this full disclosure, it is difficult for the Secretariat to fulfill its responsibilities to the government. We found that National Defence did not disclose all relevant information when it sought approval to lease 20 Leopard 2 tanks. The Department stated that all its old Leopard 1 tanks being used in Afghanistan had to be replaced. We found that National Defence was aware, but did not disclose, that there was a significant risk that it would not be able to replace the entire Leopard 1 tank fleet

in Afghanistan because it would not be able to equip the new tanks with the land mine ploughs and bulldozer blades needed for operations there. National Defence's project budget, as submitted to and approved by the government in spring 2007, included \$2.4 million for ploughs and bulldozer blades. Subsequently, several of the Leopard 1 tanks had to remain in Afghanistan to provide this capability.

**5.81** The LAV RWS project is another case where, in our opinion, National Defence did not provide in its documents to the Secretariat and the government all the relevant information for informed decision making (Exhibit 5.6).

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**Exhibit 5.6 National Defence gave inadequate information to the government during the LAV RWS project**

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The purpose of the project was to acquire 33 vehicles called the Light Armoured Vehicle Remote Weapon Station (LAV RWS), a variant of the Department's existing fleet of Light Armoured Vehicles (LAV III). The project was to equip 33 LAV III chassis, already owned by National Defence, with a remote weapon system (RWS), instead of a turret, thereby reducing its weight by several thousand pounds and allowing for more armour protection.

In October 2006, the government approved the purchase of 33 LAV RWS vehicles at a cost of \$55 million.

We found that the Department did not inform the government that it would later return for additional funding for custom armour kits. National Defence told us that the entire amount and scope of the project was not included in the first proposal because the details were not sufficiently developed at that time. In March 2007, the government approved \$55 million more for custom armour kits and in April 2007 an additional \$8 million for add-on armour.

During the audit, we found that the reason National Defence decided to proceed with this project was different from what it told the government. National Defence told government that it needed to replace two vehicles: the inadequately protected G-Wagon and the Bison vehicle used for the administrative transport of troops. However, documents from National Defence senior management meetings consistently show that the project was approved in order to build a better LAV, starting with development of a prototype.

National Defence also told the government that an options analysis showed that the LAV RWS was the best option to replace the G-Wagon and the Bison vehicles. However, we found that this was not the case. The Canadian Forces' options analysis for the Bison replacement recommended several options and the LAV RWS was not one of the preferred options. Furthermore, no analysis of the G-Wagon replacement had been prepared at that time.

When National Defence requested an additional \$55 million in the spring of 2007, it did not disclose the total cost, which would now be in excess of \$100 million. It also failed to inform the government of the status of the project in relation to the money approved in October 2006.

At the time of this second government decision, little progress had been made on the project, which was supposed to be fully complete by February 2008. Now, it appears that the vehicles will be available in Afghanistan only sometime in 2009. National Defence informed us that the original project plans were unrealistic and did not adequately consider how complex the project was.

**5.82** The Secretariat performs an important function in terms of ensuring that what is presented to government is accurate, complete, and supports the decisions that the government is being asked to make. We found that while the Secretariat has challenged the Department on some important issues, the challenge function has its limits. We found that for the projects we audited, the Secretariat did not question or challenge some important issues. The completeness and accuracy of submissions are the responsibility of the sponsoring Minister who presents them to the Treasury Board for consideration. We found instances where National Defence did not provide important information to the government that was needed for informed decision making.

**5.83 Recommendation.** National Defence should review its processes to ensure that all relevant information is included in its requests to the Treasury Board for project approvals.

**National Defence's response.** Agreed. As noted in this report, National Defence's project approval process is consistent with Treasury Board direction and policy. That being said, the process is being reviewed to ensure that it can better accommodate the possible need to deal with urgent operational requirements. National Defence will be carefully examining lessons learned from the projects included in this report, in conjunction with an analysis of the current project approval guidance, to ensure that relevant information is not excluded when project approvals are being fast-tracked for urgent projects.

## Conclusion

**5.84** Our audit examined four urgent vehicle acquisitions for use in Afghanistan. We found that the three vehicles that have been deployed to Afghanistan, according to National Defence, have met operational needs. However, not all the projects have delivered all the required capabilities and National Defence has had to make adjustments.

**5.85** Unlike non-urgent acquisitions, the Armoured Patrol Vehicle (RG-31), the Leopard 2 Tank replacement project, and the Armoured Heavy Support Vehicle System (AHSVS) project were procured and delivered quickly and, in the opinion of National Defence, have contributed to the safeguarding of Canadian soldiers in Afghanistan. However, the Light Armoured Vehicle Remote Weapon System (LAV RWS) project is nearly two years behind the original schedule and will cost at least double what the government was first told.

**5.86** The two competitive processes that we audited were successful in contracting the needed vehicles in a timely manner and in complying with all rules that apply to contracting. However, we did find some problems with contracting roles and responsibilities, information given to senior officials, and contract administration. Given the urgent operational requirements of National Defence, the problems we saw in the competitive processes were somewhat understandable.

**5.87** National Defence should examine its Project Approval Guide to determine how acquisitions can be managed so that urgently needed equipment can be acquired in a timely manner while respecting accepted project management principles. We found that the documentation required for these urgent projects was not produced in a manner that complies with the Department's own Guide.

**5.88** In order to use new equipment, there must be adequate training. In one project, the Department underestimated the need for vehicles that could be used for training. This means that the number of vehicles available for operations will be significantly reduced.

**5.89** While our audit found that three projects slipped behind schedule, we recognize that the timelines were ambitious. We found that some projects, such as the RG-31, which was in production, can be quickly delivered to where they are needed. Other projects, such as the LAV RWS that involve development work, require more time to plan. When this need for planning time is not respected, the project may fall short in meeting operational needs and also suffer cost overruns. In our opinion, given the significant development work in the LAV RWS project, it should have been managed more rigorously in accordance with National Defence's Project Approval Guide.

**5.90** It is important that Treasury Board ministers have the information they need to make good decisions. While we found that the Treasury Board of Canada Secretariat exercised its challenge function, we also found that it missed some important issues related to these projects. As well, National Defence did not disclose all relevant information.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The objectives of the audit were to determine whether

- National Defence can demonstrate that the purchase of selected military vehicles used in Afghanistan met operational needs and were acquired in a timely manner; and
- Public Works and Government Services Canada and National Defence purchased these selected military vehicles in compliance with applicable contracting legislation, regulations, and policies and acquired them in a timely manner.

### Scope and approach

Our audit focused on four vehicle acquisitions undertaken by National Defence for use in Afghanistan. We selected these four projects based on the following:

- **Mission critical.** The vehicles were urgently needed to help save soldiers' lives and to carry out military operations in Afghanistan.
- **Cost.** The cost of the project was at least \$100 million.

Acquisitions made by the Canadian Special Operations Forces Command have been excluded from our audit scope. As well, the audit did not examine Industrial and Regional Benefits.

The majority of the audit work was conducted at the offices of National Defence located in the National Capital Region. This mostly involved file reviews and interviews with officials involved in the selected projects. We obtained information from many commands within National Defence, including the Assistant Deputy Minister of Materiel, Army, Canadian Operational Support Command, Canadian Expeditionary Force Command, and Vice Chief of the Defence Staff.

The audit also included a review and analysis of various internal reports generated by Joint Task Force Afghanistan, including commanders' reports, equipment status reports, logistic reports, and IED incident reports.

We conducted procurement file reviews and interviews with staff at Public Works and Government Service Canada located in the National Capital Region and in London, Ontario.

We also reviewed files held by the Treasury Board of Canada Secretariat in connection with Treasury Board submissions and interviewed current and former analysts.

We conducted limited interviews with company officials.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that when acquiring selected military vehicles for Afghanistan, National Defence would have complied with its Project Approval Guide.	<ul style="list-style-type: none"> <li>• Treasury Board of Canada, Project Approval Policy</li> <li>• Treasury Board of Canada, Project Management Policy</li> <li>• Department of National Defence, Project Approval Guide</li> </ul>
We expected National Defence to have:	
<ul style="list-style-type: none"> <li>• identified a capability deficiency</li> <li>• completed an options analysis</li> <li>• defined the project</li> <li>• implemented the purchase</li> <li>• completed a close-out</li> </ul>	
We expected that National Defence could demonstrate that the projects delivered a solution to the problem outlined in the statement of capability deficiency.	
Timeliness was an implied criterion, given that these were urgent projects required for operations in Afghanistan.	
We expected that the Treasury Board of Canada Secretariat would have provided a challenge function by ensuring that submissions to the Treasury Board of Canada were thoroughly analyzed and properly prepared.	<ul style="list-style-type: none"> <li>• Treasury Board of Canada Secretariat, Guide to Preparing Treasury Board Submissions (2007)</li> </ul>
We expected that Public Works and Government Services Canada (PWGSC) and National Defence would have carried out the acquisitions in compliance with all laws, regulations, and policies that apply.	<ul style="list-style-type: none"> <li>• Treasury Board of Canada, Contracting Policy</li> <li>• <i>Financial Administration Act</i>, sections 32, 33, and 34</li> <li>• <i>Government Contracts Regulations</i></li> <li>• Public Works and Government Services Canada, Supply Manual</li> </ul>
We expected that PWGSC and National Defence would have worked together to complete the acquisitions in a timely manner.	<ul style="list-style-type: none"> <li>• Public Works and Government Services Canada, Supply Manual</li> </ul>

Management reviewed and accepted the suitability of the criteria used in the audit.

## Period covered by the audit

The audited activities occurred between June 2005 and May 2009 inclusively.

Audit work for this chapter was substantially completed on 29 May 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 5. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p><b>Project management</b></p> <p><b>5.22</b> National Defence, in consultation with the Treasury Board of Canada Secretariat, should examine its Project Approval Guide to determine how the Department can manage the process of acquiring urgently needed equipment in a timely manner while respecting sound project management principles and Treasury Board policies. (5.14–5.21)</p>	<p>Agreed. National Defence will review the current project approval guidance with a view to align the present documentation requirements for procurement greater than \$1 million with the project approval framework as outlined in the Project Approval Guide. The Treasury Board of Canada Secretariat and other stakeholders will be consulted in order to achieve the correct balance between urgency and appropriate levels of documentation to support decision-making rationale. The National Defence group responsible for materiel will be consulted to ensure that coordination of the Guide and Project Management Manual meets the requirements.</p>
<p><b>Contracting</b></p> <p><b>5.40</b> For urgent operational requirements, National Defence should involve Public Works and Government Services Canada (PWGSC) early, in accordance with agreed upon roles and responsibilities, so that effective procurement strategies can be implemented to meet operational objectives. (5.23–5.39)</p>	<p>Agreed. Lessons learned from recent procurements, and opportunities for making process and other improvements, are being explored in some depth as part of a number of ongoing government reviews of defence procurement. Measures to further improve the already close collaboration between National Defence and PWGSC, while respecting the statutory responsibilities of the respective departments, are being examined as part of these reviews.</p> <p>In addition, PWGSC Acquisitions Branch now has full membership in several standing and ad hoc National Defence bodies that oversee the planning of future acquisitions, both routine and urgent.</p>

**Recommendation**

**5.48** Public Works and Government Services Canada (PWGSC) and National Defence should examine lessons learned in contracting for urgent operational requirements that could be applied to help speed up the regular procurement process.

(5.41–5.47)

**Response**

**Department of National Defence's response.** Agreed. National Defence continues to work with PWGSC and other key partners to develop a whole-of-government approach to improve and accelerate military procurement. Lessons learned from recent projects related to urgent operational requirements are being evaluated and contributing to these ongoing efforts. In particular, National Defence is working with PWGSC to develop a comprehensive defence procurement process model that will help optimize the process for both routine and urgent military acquisitions. To this end, National Defence has largely completed the initial mapping of its current internal processes and plans to have the full National Defence model completed by 31 March 2010.

**PWGSC's response.** Agreed. The observations noted in the chapter regarding the implementation of strategies to fast track the procurement and delivery of the urgently required military vehicles, while respecting government contracting policies and objectives, reflect the success of these PWGSC military procurement initiatives.

PWGSC will conduct a lessons-learned exercise to review the procurement activities undertaken during the urgent acquisition of the four types of military vehicles destined for Afghanistan, examined during this audit. The lessons learned will highlight the steps, activities, actions, and processes that led to the quick and timely acquisition of these vehicles.

The lessons learned will be completed by the end of October 2009 and, where applicable, effective practices identified through the lessons-learned exercises would be considered for implementation as part of the Department's existing initiative aimed at improving the efficiency of major military and other Government of Canada procurements.

## Recommendation

## Response

## Meeting operational needs

**5.72** When National Defence plans urgent acquisitions, it should rigorously assess training requirements to ensure that there are a sufficient number of vehicles to meet training needs without reducing the number dedicated for operations. (5.49–5.71)

Agreed. In an effort to mitigate the risks associated with the aggressive processing of an unforecasted operational requirement, the Land Staff has embraced a revised strategy across two broad fronts designed to more effectively address key project linkages such as training. First, abbreviated Capability Development assessments better define what is required to build, generate, employ, and sustain any given capability. With respect to training, the Directorate of Army Training, as well as Corps Schools/Centres of Excellence, play an increasing role in ascertaining what is required to train personnel for an emerging capability. On the second front, Army staffs closely shepherd training stocks once an unforecasted operational requirement capability is fielded. This typically involves a synchronized cycle whereby equipment and/or personnel are moved to facilitate the enhanced training of a unit or units for increased readiness in preparation for operations.

## Oversight by the Treasury Board of Canada Secretariat

**5.83** National Defence should review its processes to ensure that all relevant information is included in its requests to the Treasury Board for project approvals. (5.73–5.82)

Agreed. As noted in this report, National Defence's project approval process is consistent with Treasury Board direction and policy. That being said, the process is being reviewed to ensure that it can better accommodate the possible need to deal with urgent operational requirements. National Defence will be carefully examining lessons learned from the projects included in this report, in conjunction with an analysis of the current project approval guidance, to ensure that relevant information is not excluded when project approvals are being fast-tracked for urgent projects.



# Report of the Auditor General of Canada to the House of Commons—Fall 2009

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Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**Chapter 6**  
Land Management and Environmental Protection  
on Reserves



Office of the Auditor General of Canada



# 2009



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**Chapter 6**

Land Management and Environmental Protection  
on Reserves



Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

# 6

Land Management and  
Environmental Protection on Reserves



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# Land Management and Environmental Protection on Reserves

## Main Points

### What we examined

Land management refers to managing the use and development of land resources in a sustainable way. Land can be used for a range of purposes that interact and may compete with one another, making it desirable to plan and manage land use in an integrated way that provides for protecting the environment from negative impacts of economic development.

Until the early 1980s, all land management activities on First Nations reserves were the exclusive responsibility of the federal government. However, through comprehensive land claim settlements and self-government agreements, several First Nations have assumed full control and responsibility for the development of the reserve lands; some others have assumed responsibility under other arrangements for various aspects of land management on their reserves. The specific roles and responsibilities of the federal government vary depending on its agreement or arrangements with the First Nation.

We examined how Indian and Northern Affairs Canada (INAC) and Environment Canada have carried out the federal government's responsibilities for land management and environmental protection on reserves. This included looking at regulatory and non-regulatory measures used to manage the environment and the support INAC provides to those First Nations wishing to assume more land management responsibilities.

Audit work for this chapter was substantially completed on 29 May 2009.

### Why it's important

Reserve lands are central to First Nations peoples' history, cultural identity, and day-to-day activities. Many First Nations are among the most economically deprived communities in the country. Their sustainable economic development depends on their access to and control over their land and natural resources and on a clean and healthy environment. Without the capacity and means to develop and use their lands and resources sustainably for their economic benefit, the opportunities for First Nations to improve their quality

of life and approach the standard of health and well-being enjoyed by other communities in Canada are severely restricted.

### What we found

- Indian and Northern Affairs Canada and Environment Canada have identified a significant gap between First Nations reserves and Canadian communities elsewhere in the degree to which regulations protect the environment. While the federal government has the authority to regulate environmental threats on reserves, it has rarely used this authority to develop regulations to mitigate environmental threats that are regulated off reserves by provincial governments.
- INAC has done little to monitor and enforce compliance with existing regulations. For example, while regulations under the *Indian Act* require a permit issued by INAC to operate a landfill site or burn waste on reserve lands, the Department has issued few permits and is not equipped to conduct inspections, monitor compliance, and enforce the regulations. Consequently, garbage is often not confined to licensed landfill sites and there is no monitoring of the impacts on drinking water sources and air quality. Off reserves, provincial and municipal regulations and enforcement help to prevent such situations.
- Although INAC has developed legislative and program options to support First Nations who wish to assume partial or full control of land management on their reserves, most First Nations lands are still managed by the Department under the *Indian Act*. First Nations' access to alternative land management regimes established by INAC does not meet the demand. Consequently, INAC is unable to keep its commitment to transfer greater control of land management to First Nations who want it and are ready to take on these responsibilities. Furthermore, for First Nations under either of the alternative land management regimes, the Department provides insufficient training in comparison with the land management responsibilities it is transferring to them.
- Officials of both INAC and Environment Canada cited a lack of funding as a key reason for not meeting some of their commitments.

**The departments have responded.** The departments agree with all of our recommendations. Their detailed responses follow each recommendation throughout the chapter.

## Introduction

**6.1** Land management refers to managing the use and development of land resources in a sustainable way. Land can be used for a range of purposes that interact and may compete with one another. This makes it desirable to plan and manage land use in an integrated way that provides for protecting the environment from the negative impact of economic development. Historically, Indian and Northern Affairs Canada (INAC) has been responsible for administering the land management requirements of the *Indian Act* in response to requests by First Nations. It is still responsible for all land management activities for the majority of First Nations. The Department spent over \$135 million on managing reserve lands in the 2006–07 fiscal year.

**6.2** According to INAC, Canada has 615 First Nations, with more than 80 percent of them consisting of fewer than 1,000 people living on reserves. First Nations people have higher unemployment rates and lower average incomes than other Canadians, particularly those living on reserves. Many First Nations view the development of reserve lands as their most viable means of generating wealth for their communities. Currently, 568 First Nations have land spread over more than 3,000 reserves, with a total area equivalent to about 60 percent that of Nova Scotia. Just over 160 reserves are urban; the remainder are rural and remote.

**6.3** Fifty-six percent of First Nations members across Canada live in reserve communities; with some exceptions, these communities include homes, churches, administration buildings, and schools built on reserve land. In addition, some First Nations use portions of their land for economic development—for example, by leasing it to other parties or developing natural resources.

**6.4** How these lands are managed, regulated, and protected is important to First Nations and to the well-being of their communities. With populations growing at a faster rate than Canada's population, these reserve lands will need to accommodate increasingly more homes, facilities, and infrastructure.

**6.5** In communities off reserves, a series of municipal, provincial, and federal laws and regulations govern land use, occupancy, and development. However, for the most part, provincial and municipal laws and regulations related to land use do not apply to reserves. For most First Nations, the Chief and council can pass bylaws and develop community plans for their reserves, but the federal

government has the authority and responsibility to regulate use and to protect the environment of reserve lands.

**6.6** Since 1876, the *Indian Act* has been the main instrument governing the use of First Nations lands. For a number of years, First Nations and others have raised concerns about how reserve lands have been managed under the Act.

### Concerns about the management of reserve lands

**6.7** The *Indian Act* has shaped how First Nations have been able to develop and profit from their reserve lands. The 1996 Royal Commission Report on Aboriginal Peoples and the 2007 report by the Senate Standing Committee on Aboriginal Peoples, *Sharing Canada's Prosperity—A Hand up, not a Handout*, both pointed to legislative and regulatory barriers and limited access to lands and resources as problems for First Nations' economic development. The Senate Committee report identified the *Indian Act* as one of the critical barriers to economic development on reserves. It also concluded that, under the *Indian Act*, market forces do not operate properly on Indian lands, which substantially raises the costs of doing business there.

**6.8** Some of the Act's provisions that affect land management date back more than a century. Many First Nations have identified the following provisions as making economic development today a significant challenge for them:

- **Control of moneys.** *Indian Act* amendments in 1880 gave power to the federal government to decide how to spend revenue from the surrender and sale of reserve lands or other resources. First Nations must ask to use this revenue, which is held by the government in trust accounts, and specify how they intend to use it in each case. First Nations have noted that this inhibits those who wish to use these moneys to develop reserve lands.
- **Control of resources.** The written permission of the Minister of Indian and Northern Affairs is needed to remove minerals, timber, hay, and other resources from reserves. Title to resources on reserves does not lie with the First Nation, but with the Crown, for the benefit and use of the First Nation. A First Nations band Chief and council are thus not at liberty to enter into resource extraction agreements with industry without the willing, active, and timely participation of INAC.

- **Inability to use lands as collateral.** The *Indian Act* includes provisions that prohibit the seizure of property on reserve lands by outside interests, including banks and other would-be investors. Therefore, reserve lands cannot be used as collateral. This has significantly limited First Nations' ability to secure financing for investment in economic development activities on reserves.
- **Outdated regulatory environment.** The land management provisions of the *Indian Act* have not been significantly amended since 1951; they do not address economic development or environmental protection issues that, off reserves, are regulated by a combination of federal, provincial, and municipal institutions.

**6.9** First Nations have also expressed concern that the processes that support land management under the *Indian Act* are cumbersome and slow. First Nations are governed by about 35 land-related sections of the *Indian Act*, including about 25 provisions that involve the Minister or Governor in Council in reserve land and resource management decisions. Depending on the type of land transaction, the process involves a First Nations band council resolution informing INAC of a proposed land use change, such as a new lease. A departmental lands officer works with the First Nation to complete the land transaction. Sometimes the First Nation's membership has to vote in a referendum on specific proposals. The lands officer reviews the proposal, ensuring that the change is consistent with any land use planning in place and that it conforms with pertinent environmental requirements. It must then be approved by the Minister and registered. First Nations and INAC officials have indicated that land management provisions of the *Indian Act* create impediments to the economic development of reserves because of the lack of timely decision making.

**6.10** As well as fostering the economic well-being and prosperity of First Nations, one of INAC's primary objectives is to encourage sustainable management of First Nations lands and resources. INAC and Environment Canada both have responsibilities for protecting the environment on reserve lands, and the federal government is committed to providing the same standards of environmental protection that other Canadian communities have come to expect.

### Focus of the audit

**6.11** This audit focused on whether INAC and Environment Canada have met their responsibilities for land management on reserves, specifically with respect to transferring control of land management and providing essential environmental protection on reserve lands. We assessed whether INAC had developed legislation and regulations, programs, or policies that support First Nations' land management as alternatives to managing under the *Indian Act*. We also examined whether INAC and Environment Canada had provided essential protection of the environment on First Nations reserves, by developing and implementing legislative options, programs, and policies, and whether environmental protection measures on reserves were comparable with those off reserves.

**6.12** We examined the legislative options, institutions, and programs developed since 2005, paying particular attention to the actions of departments over the past three years. We did not audit land activities related to 41 First Nations whose lands are managed through comprehensive land claims and self-government agreements.

**6.13** More details on the audit objectives, scope, approach, and criteria are in *About the Audit* at the end of this chapter.

## Observations and Recommendations

### Transfer of control of land management

**6.14** Given the concerns raised by First Nations, the 1996 Royal Commission on Aboriginal Peoples, the Senate Standing Committee on Aboriginal Peoples, and the Department's own assessments, we expected that Indian and Northern Affairs Canada (INAC) would develop alternative ways of dealing with land management issues to provide First Nations with greater control to address some of the economic development challenges particular to reserve lands. Specifically, we expected that, consistent with commitments in its reports on plans and priorities, INAC would have proposed legislative or regulatory measures, developed institutions, and put in place programs or other arrangements that would support management of reserve lands.

**6.15** We reviewed legislative and program changes made over the past five years, obtained and assessed related documentation, interviewed department officials, and spoke with a number of First Nations representatives.

## The Department developed legislative and program options to support First Nations' management of their lands

**6.16** We found that the Department had worked with First Nations to develop and propose four legislative measures, which were subsequently enacted, and to develop four related financial institutions (Exhibit 6.1). All of these initiatives were aimed at providing First Nations with greater flexibility in managing land management activities and responding to concerns related to land management on reserves.

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### Exhibit 6.1 Recent legislative changes to provide for more flexible land management

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#### *Indian Oil and Gas Act (revised), May 2009*

- **Purpose:** To update provisions that remained unchanged since 1974.
- **Key changes:** Allows regulation-making powers, an enforcement system comprised of fines and penalties, and environmental protection.
- **Intent:** To facilitate an oil and gas regime on reserves equivalent to those regimes off reserves.

#### *First Nations Oil and Gas and Moneys Management Act, November 2005*

- **Purpose:** To allow for First Nations control over oil and gas activities taking place on reserve lands and for the management of Indian moneys.
- **Key changes:** Allows oil and gas development and/or moneys management transfers to the First Nation.
- **Intent:** To provide for greater First Nations control over oil and gas development.

#### *First Nations Commercial and Industrial Development Act, November 2005*

- **Purpose:** To facilitate a regulatory regime for an on-reserve project that would mirror the regulatory regime off reserves.
- **Key changes:** Allows federal regulations to be developed for individual projects on reserves that would be equivalent to those off reserves.
- **Intent:** To remove any regulatory gaps between on-reserve and off-reserve development.

#### *First Nations Fiscal and Statistical Management Act, March 2005*

- **Purpose:** To allow First Nations to derive revenue from the collection of taxes from band lands. Assistance with regard to taxation, finances, and statistics collection will be carried out through four institutions.
- **Key changes:** Allows First Nations to create laws for the taxation of reserve land and to access institutions mandated to develop capacity.
- **Institutions created:**
  - First Nations Tax Commission assists in the development of property tax regimes on reserve.
  - First Nations Finance Authority (FNFA) issues bonds and raises long-term private capital.
  - First Nations Financial Management Board assesses, assists, and develops standards to allow First Nations to borrow from the FNFA.
  - First Nations Statistical Institute is mandated to provide statistical information on First Nations and build their statistical capacity.

**6.17** These federal acts and institutions may enable First Nations to make more productive use of reserve land. To the extent that they are applied, these mechanisms could provide First Nations with access to capital and encourage more economic development activity on reserve lands.

**6.18** However, these acts and institutions were implemented only over the last few years. Some of them are voluntary and are accessed by First Nations at their own pace, and therefore they have affected only a small number of First Nations to date. We did not audit their implementation or assess their efficacy. We note that while these options are not designed to address all of the concerns expressed, the Department has developed mechanisms to address significant issues.

**6.19** In addition to the more recent legislative amendments and institutions that INAC has developed with First Nations, we examined various land management regimes developed by the Department. According to its Land Management Manual, INAC views the transfer of land management responsibilities to First Nations as part of an overall departmental approach to facilitating First Nations' control over their communities. It has committed to moving forward, in partnership with First Nations, from a relationship characterized by dependency to one in which First Nations assume greater jurisdiction, authority, and control over their lands, resources, and environment. We therefore expected to find options that would facilitate this transfer of control over land management to First Nations.

**6.20** INAC has provided options since the early 1980s for First Nations who considered that the *Indian Act* regime of land management was not meeting their needs. The Regional Lands Administration Program (RLAP) was a co-management approach between INAC land managers and First Nations under the *Indian Act*. The Delegated Lands Management Program authorized First Nations to manage and deliver, on INAC's behalf, specific land management services required under the *Indian Act*. Both programs still operate, with 95 First Nations participating, but have been closed to any additional First Nations since 2004. Instead, the Department has developed two other options to enable First Nations to assume more land management responsibilities on their reserves.

**6.21** The Department collaborated with First Nations to establish a Framework Agreement on First Nation Land Management in 1996, which led to the passing of the *First Nations Land Management Act* (FNLMA) in 1999. In 2005, the Department put in place the Reserve Land and Environment Management Program (RLEMP), a pilot

program intended to replace both the RLAP and the Delegated Lands Management Program. We examined both of these initiatives.

**Land management alternatives do not provide enough access to First Nations who otherwise could participate**

**6.22 Reserve Land and Environment Management Program (RLEMP).** The RLEMP is a pilot program that transfers from INAC to First Nations certain responsibilities under the *Indian Act*, such as community land use planning, environmental management, natural resources management, compliance monitoring, and administration of land transactions.

**6.23** This program is open to First Nations that are currently operating under the RLAP or the Delegated Lands Management Program. To be eligible, a First Nation must have a land manager, at least one active registered land transaction, and a track record of good financial management.

**6.24** Through training and delegation of authorities, this program is intended to build First Nations' land management capacity. It is also intended to accelerate the pace at which First Nations exercise greater control over their reserve land, resources, and environment, rather than having lands managed by the Department.

**6.25** The program began as a pilot program in 2005 with 15 First Nations. According to information that the Department published at the time, it expected the program to be available to all First Nations by April 2006. We therefore expected that INAC would have expanded the program to include any First Nations who wanted to participate.

**6.26** We found that access to the program was still limited to First Nations who were participating in either the RLAP or the Delegated Lands Management Program. Moreover, although some First Nations in these programs had indicated their interest in the RLEMP, the Department has not always admitted them. The process of entering the RLEMP is initiated by INAC when it invites a First Nation to send its land manager for RLEMP training. About 40 percent of First Nations under the two entry programs have moved into the RLEMP.

**6.27** INAC has not provided access to the RLEMP for the majority of First Nations. Thus it is not giving many First Nations the opportunities that the program offers to build their land management capacity and expertise in order to better manage economic development and environmental protection on their reserves.

**Land code**—A code that sets out the basic provisions governing the exercise of a First Nation's rights and powers over its reserve lands. It can include procedures for mortgage provisions, seizure of leasehold interests, dispute resolution mechanisms, and making and publishing First Nation laws.

**6.28 First Nations Land Management Act.** The First Nations Land Management Act (FNLMA) was developed to provide First Nations with greater flexibility in the areas of land, resource, and environmental management. It stems from the 1996 Framework Agreement on First Nation Land Management between 14 First Nations and the Minister of Indian Affairs and Northern Development. The FNLMA effectively removes First Nations who choose this option from the land management provisions of the *Indian Act*. It enables them to adopt a **land code** and assume management over their reserve lands and associated revenues. It also provides First Nations with the law-making authority over environmental protection. Upon becoming operational under the FNLMA, a First Nation may not return to being governed under the land management provisions of the *Indian Act*.

**6.29** The FNLMA is open to First Nations who are operating under any of the existing land management regimes. The Framework Agreement on First Nation Land Management established a First Nations Lands Advisory Board consisting of representatives from First Nations operating within the regime. Once an interested First Nation applies, both INAC and the Board assess the First Nation's preparedness to enter into this regime. The Department's regional office considers the First Nation's financial management status, any litigation involving reserve lands, the band's election cycle status, and any environmental concerns and land interest issues.

**6.30** First Nations under the FNLMA may give their own consent for land transactions. This provision of the Act aims to enable First Nations to make timely business and administrative decisions and to accelerate their progress in economic development, resource management, and land use planning. Once a First Nation is fully operational in all provisions of the FNLMA, INAC's role in managing the First Nation's land activities is limited to maintaining the agreed-upon funding and registering land transactions as well as providing some technical support.

**6.31** For most First Nations, the FNLMA regime is, in effect, the only alternative to land management under the *Indian Act*. Thus, in light of INAC's commitment to work with interested First Nations to enable them to assume control over their lands, resources, and environment, we expected that the Department would have accepted First Nations who were interested and ready into the FNLMA regime.

**6.32** When developing the programming for the FNLMA, the Department anticipated that about 90 First Nations could become

fully operational in all provisions of the Act. In 2002, its plans called for having 30 First Nations in the developmental phase of the FNLMA regime at any given time. The Department anticipated that up to 75 First Nations would be operational by the end of 2007. At the time of our audit, only 22 First Nations were operational, 19 were in the developmental stage, 2 had negotiated self-government agreements, and 9 were inactive. Another 61 First Nations were waiting to enter the FNLMA, most of whom were still waiting to be assessed by the Department to determine whether they were ready to enter the FNLMA regime. At the end of 2008, 15 of these 61 First Nations had been waiting for more than seven years.

**6.33** The wait to enter the FNLMA regime could impede economic development for First Nations who want to obtain control over their land management. Carrying out complicated commercial transactions is difficult for First Nations under the *Indian Act*, due to the administrative delays caused by the required approvals and procedures. In addition, several sources indicate that private sector investors appreciate the certainty that comes from dealing directly with First Nations under the FNLMA, knowing that the First Nation, not INAC, holds the legal authority to make decisions. Until the Department can make the FNLMA or RLEMP accessible to First Nations who want to enter those regimes, it does not have the means for meeting its commitment to transfer greater control of land management to First Nations.

**6.34 Recommendation.** Indian and Northern Affairs Canada should ensure that First Nations who are ready and who want greater autonomy over their land management can access either the Reserve Land and Environment Management Program or the *First Nations Land Management Act* regime.

**The Department's response.** Agreed. The Reserve Land and Environment Management Program (RLEMP) began as a pilot program in 2005 and has been funded internally since its inception. Existing authorities were used to allow for a pilot of the RLEMP, limited to First Nations participating in existing programs.

Since 1996, a number of First Nations have sought access to the *First Nations Land Management Act* (FNLMA) regime. In 2002, an amendment to the Framework Agreement on First Nation Land Management was made to allow up to 30 First Nations in the developmental phase of the FNLMA regime at any given time.

In March 2008, INAC had to close the FNLMA regime to new entrants due to a lack of funding. The Department is currently seeking

additional resources to effectively implement the FNLMA regime for participants and expand it to new First Nations.

In summer 2009, a sustainable funding source for the RLEMP was secured through the Aboriginal Economic Development Action Plan. With dedicated funding over four years, INAC will now be able to fully implement this program and allow up to 20 new First Nations per year to enter the RLEMP.

**Current options for delegated land management have not included sufficient training and capacity building**

**6.35** When First Nations enter into a land management regime that provides them with greater responsibility for processing land transactions, they take over some of the land management activities that would otherwise have to be carried out by INAC. To carry out these responsibilities effectively, appropriate training for First Nations staff is essential.

**6.36** One of the priorities in the Department's program activity architecture is to build First Nations' capacity for land management. The Department has also made specific commitments to facilitate training for First Nations in the RLEMP, although not for First Nations in the FNLMA regime. While the First Nations Land Advisory Board has responsibilities to develop curricula and training under the FNLMA, we expected that INAC would have met its broad commitment to develop the capacity of First Nations taking on increased responsibilities, by ensuring that they are provided with appropriate training. We also expected that the Department would have met its specific commitments to provide training for First Nations under the RLEMP.

**6.37** We looked at the training available to First Nations participating in the RLEMP and the FNLMA regime. We examined documentation on training curricula, training completed, and training availability. We interviewed officials of the Department, a First Nation organization, and a facility that provides RLEMP training.

**6.38 Reserve Land and Environment Management Program (RLEMP).** One of the objectives of the RLEMP is to prepare First Nations for their roles and responsibilities through a training and certification program. First Nations land managers become certified when they successfully complete the RLEMP training program. This training program takes place over two years, with the land managers

participating in one- and two-week intensive classroom training sessions, followed by several weeks of home study to be completed while working in their communities.

**6.39** As soon as a First Nation member is registered for training, the First Nation is considered to be in the training and development phase of the RLEMP. The First Nation becomes fully operational when its land manager completes a two-year training program. We found that of the 67 First Nations in the program at the end of our audit, only 28 had certified land managers; the land managers in the other 39 were receiving training. This means that more than half of the First Nations with RLEMP responsibilities do not yet have fully trained land managers.

**6.40** While INAC covers all costs associated with the two-year RLEMP training program and certification, it plans to pay training costs for only one person per First Nation, with additional spots available for First Nations who want to cover the cost of training themselves. However, First Nations have expressed concern that training only one person per First Nation could have serious consequences. Staff turnover or unavailability of trained land managers for other reasons could result in First Nations being unable to carry out their land management responsibilities.

**6.41** We also found that training was sometimes arranged on short notice. To commit to the first year of the training, the land manager must participate in three two-week sessions away from the community and another 28 weeks of home study while working within the community. For example, for first-year training scheduled to begin in April 2008, it was not until that month that the Department confirmed enrolment decisions and funding to the participants and the training facility. Late approvals mean participants have very little time to make arrangements for leaving their work and home responsibilities throughout the coming year. As a result, some First Nations staff were unable to take the training. Of the 30 participants offered entry to the program annually by the Department, only 23 started the training in 2008 and 16 in 2009. We observed that an INAC evaluation of the RLEMP pilot project in 2007 noted delays in approvals and funding.

**6.42 First Nations Land Management Act (FNLMA) regime.** First Nations under the FNLMA are responsible for developing a land code, processing all their land transactions, working with INAC and Environment Canada to establish an Environmental Management Agreement, and passing their own environmental laws and regulations

related to land management. These responsibilities are more extensive than those assumed by First Nations under the RLEMP.

**6.43** The development of training was to be addressed through an annual funding arrangement with the First Nations Land Advisory Board (FNLAB). INAC has a funding arrangement that provides them about \$3.5 million annually to, among other things, develop model land codes, laws, and management systems and to assist other First Nations seeking to become operational within the FNLMA regime.

**6.44** An additional element in this funding arrangement is the development of a training strategy. In the past, INAC has provided funding to the FNLAB specifically to develop curricula and training programs. In 2005, the Department discontinued this funding. Since then, the Department has offered priority for RLEMP training to selected First Nations under the FNLMA.

**6.45** At present, land management training is not mandatory for First Nations under the FNLMA. Of the 52 First Nations in this regime, 10 had a land manager who had either registered for RLEMP training or was already certified at the time of our audit. Another 10 First Nations had started training but not completed it.

**6.46** The training developed for the RLEMP does not address all the responsibilities specific to the FNLMA. Without adequate training, those First Nations under the FNLMA may be unable to develop the necessary capacity but will still have full responsibility and liability for land management and environmental protection.

**6.47 Recommendation.** Indian and Northern Affairs Canada, in collaboration with First Nations, should seek to ensure that an appropriate training program is developed for First Nations in the *First Nations Land Management Act* regime. The Department should also ensure that appropriate training is made available to First Nations in either the Reserve Land and Environment Management Program or the FNLMA regime. This training should address the requirements under each of the respective regimes.

**The Department's response.** Agreed. The Reserve Land and Environment Management Program (RLEMP) has provided the only professional land management training available to First Nations for the past four years. Program evaluations and reviews of the RLEMP training program have concluded that the design and delivery of the training program are sound, credible, relevant and responsive to the needs of First Nations land managers and their communities.

From 1999 to 2005, Indian and Northern Affairs Canada (INAC) provided funding to the First Nations Land Management Resource Centre to develop a training strategy and curricula that would address the specific capacity requirements of First Nations Land Management First Nations. In 2005, INAC discontinued this funding due to a lack of progress. While the RLEMP training was designed for First Nations managing lands under the *Indian Act*, the Department decided to offer that training on a priority basis to First Nations Land Management First Nations as a temporary measure.

A renewed effort by the Resource Centre to develop training and curricula specific to First Nations Land Management is currently being undertaken and INAC anticipates receiving a proposal to that effect in 2009–2010.

The RLEMP pilot project has been funded internally since its inception in 2005. The necessary sources of funds have not always been identified or available at the beginning of each fiscal year. As a result, there has been a delay in confirming whether the RLEMP training program could be offered in a given year and in notifying students of their acceptance into the training program.

As mentioned previously, a sustainable funding source for the RLEMP was secured in spring 2009 through the Aboriginal Economic Development Action Plan. With dedicated funding for this program over four years, INAC will now be able to engage in the appropriate planning and forecasting required to notify new students slated to participate in the RLEMP training program much sooner than before.

## Environmental protection

### Fewer regulations protect the environment on reserves than off reserves

**6.48** An important part of land management is protecting the environment from adverse effects of economic and residential development and mitigating any risks to human health and safety. Indian and Northern Affairs Canada and Environment Canada have both expressed their commitment to promoting sustainable development on reserve lands. The use and development of land off reserves is generally subject to a wide range of provincial and municipal laws, regulations, and zoning codes, many of which are aimed at protecting the environment.

**6.49** In Canada, provincial, territorial, and municipal government laws and regulations provide measures to control a vast array of potential environmental threats. However, provincial and municipal laws and regulations generally do not apply on reserves and cannot be

enforced there. The federal government is responsible for all regulation of environmental protection on First Nations reserves that are managed under the *Indian Act*. It has power and authority under the *Indian Act*, the *Canadian Environmental Assessment Act*, the *Canadian Environmental Protection Act, 1999*, and the *Fisheries Act* to protect the reserve lands and foster their sustainable use. It also has other management tools, such as policies and programs, to promote environmental protection.

**6.50** In 1996, the parties who signed the Framework Agreement on First Nation Land Management identified four significant environmental threats: solid waste, sewage, fuel storage tanks, and environmental emergencies. In a 2007 study, Environment Canada also identified significant risks on reserves that required priority attention, including landfill, solid waste, and hazardous waste; discharge to surface water; and air emissions from incineration and open burning of garbage.

**6.51** Given the importance of these environmental threats to First Nations, and Environment Canada's recognition of environmental risks, we expected that INAC and Environment Canada would have given priority attention to these matters and would have developed, monitored, and enforced regulations and taken other measures to address each issue.

**6.52** We compared the extent to which regulations applicable to reserves in the four priority areas identified by the parties were consistent with regulations that exist off reserves. Specifically, we compared regulations from selected legislation in Ontario with those from key legislation in place that address the same risks on reserves. We found that many of these priority environmental threats are not regulated on reserves (Exhibit 6.2).

**6.53** In several studies and evaluations since 2005, Environment Canada has confirmed the existence of a gap in environmental regulations on reserves. INAC has also recognized the existence of a regulatory gap. The *First Nations Commercial and Industrial Development Act* includes the power to pass regulations that mirror those of the province in which the reserve is located; however, to date, it has only been used to develop regulations for one industry sector on one reserve.

**Exhibit 6.2** Regulatory provisions of selected environmental threats—comparison of regulations in place in the province of Ontario and on First Nations reserves

	Ontario	On Reserves
<b>Solid waste</b>		
<b>Waste disposal</b>		
• waste can only be deposited in an approved waste disposal site	<input checked="" type="radio"/>	<input checked="" type="radio"/>
<b>Landfill sites</b>		
• permit or certificate required to establish and operate	<input checked="" type="radio"/>	<input checked="" type="radio"/>
• standards for locating, operating, and maintaining landfill sites	<input checked="" type="radio"/>	<input checked="" type="radio"/> <sup>1</sup>
• cannot use land previously used for landfill for 25 years (unless approved by the Minister)	<input checked="" type="radio"/>	<input type="radio"/>
<b>Waste processing or recycling</b>		
• permit required to establish and operate	<input checked="" type="radio"/>	<input type="radio"/>
<b>Hazardous waste</b>		
• certain wastes designated as hazardous wastes	<input checked="" type="radio"/>	<input type="radio"/>
• hazardous waste tracked from cradle to grave (from generator to carrier and to receiver)	<input checked="" type="radio"/>	<input type="radio"/>
• restrictions on land disposal of untreated hazardous wastes	<input checked="" type="radio"/>	<input type="radio"/>
<b>Sewage and other wastewater discharges</b>		
<b>Discharges/releases of pollutants into water</b>		
• general prohibition on releases into water	<input checked="" type="radio"/>	<input checked="" type="radio"/>
<b>Septic systems</b>		
Small systems (e.g. to serve a residence)		
• minimum standards for design and installation; permits and inspections required	<input checked="" type="radio"/>	<input type="radio"/>
Large and communal systems		
• can only be constructed and operated if covered by an approval/permit	<input checked="" type="radio"/>	<input type="radio"/>
<b>Municipal/community wastewater treatment facilities</b>		
• can only be operated if covered by an approval/permit	<input checked="" type="radio"/>	<input type="radio"/> <sup>2</sup>
• discharges must be in accordance with permit requirements (discharge limits, etc.)	<input checked="" type="radio"/>	<input type="radio"/>
• facility operators must be licensed	<input checked="" type="radio"/>	<input type="radio"/>
<b>Industrial/commercial facilities that discharge into water</b>		
• can only be operated if covered by an approval/permit	<input checked="" type="radio"/>	<input type="radio"/> <sup>2</sup>
• discharges must be in accordance with permit requirements (discharge limits, etc.)	<input checked="" type="radio"/>	<input type="radio"/> <sup>3</sup>
• discharge standards for persistent toxics for certain industrial sectors	<input checked="" type="radio"/> <sup>4</sup>	<input checked="" type="radio"/> <sup>5</sup>

**Exhibit 6.2 Regulatory provisions of selected environmental threats—comparison of regulations in place in the province of Ontario and on First Nations reserves (continued)**

	Ontario	On Reserves
<b>Fuel storage</b>		
<b>Underground and above-ground storage tanks</b>	<input checked="" type="radio"/>	<input checked="" type="radio"/> <sup>6</sup>
• design and performance standards and requirements related to installation, leak detection, upgrades, registration, operation, and maintenance		
<b>Propane facilities</b>	<input checked="" type="radio"/>	<input type="radio"/>
• National Propane Storage and Handling Code adopted		
<b>Environmental emergencies</b>		
<b>Spills of pollutants and spill response (general)</b>		
In the event of a spill of a pollutant, persons involved in spill must		
• report the spill to environmental authorities, the local municipality, and others	<input checked="" type="radio"/>	<input checked="" type="radio"/> <sup>8</sup>
• clean up the spill and restore the natural environment	<input checked="" type="radio"/> <sup>7</sup>	<input checked="" type="radio"/> <sup>8</sup>
<b>Designated “dangerous goods”: accidental releases during transport</b>		
• immediate reporting to provincial authorities and others	<input checked="" type="radio"/>	<input checked="" type="radio"/>
<input checked="" type="radio"/> environmental risk addressed through regulations		
<input type="radio"/> environmental risk not addressed through regulations		

**Explanatory notes**

1. Risk is addressed through permits (see paragraph 6.58).
2. Conditions may be imposed under funding agreements and the *Canadian Environmental Assessment Act*.
3. *Fisheries Act* regulates discharges from some industry sectors.
4. Regulations apply to nine industry sectors.
5. Regulations apply to two industry sectors.
6. Regulations do not apply to above-ground tank systems for heating or emergency power (2500L or less overall capacity).
7. Regulations are for pollutants generally.
8. Regulations are for specified hazardous or flammable substances.

Source: Ontario laws and regulations and federal laws and regulations

**Existing regulations and other measures do not protect First Nations from priority environmental threats**

**6.54** In 2002, INAC developed an Environmental Stewardship Strategy to protect the health and safety of First Nations and Inuit peoples, address the environmental regulatory gap, and reduce the risk of contamination as well as the Department's potential financial liability. This strategy included both short- and long- term action items to develop and implement policies, directives, operational guidelines, standards, and other management tools. Under the strategy, the Department identified commitments and goals related to waste management, contaminated sites, and fuel storage tank management. In 2007, the Department developed a framework for implementing the strategy and monitoring progress. This framework included performance objectives, indicators, and targets.

**6.55** We therefore expected that the Department, in conjunction with Environment Canada, would have taken steps to fill the regulatory gap in order to protect reserve lands from environmental risks associated with land use. We also expected that INAC would have made progress toward its identified objectives. We reviewed INAC's assessment of its progress.

**6.56** We examined existing regulations and measures in place as well as actions taken by INAC, under its Environmental Stewardship Strategy, and by Environment Canada to address environmental threats identified as priorities to First Nations. We also reviewed the environmental regulations that currently apply on reserve lands for these priority areas. We looked at how the regulations are applied along with other measures taken to manage risks on First Nations reserves in British Columbia, Saskatchewan, and Ontario, the provinces with the greatest number of registered land transactions over the past three years.

**6.57** We found that the Department had implemented most of the short-term action items in its Environmental Stewardship Strategy, such as developing an overall policy to guide the integration of environmental management practices. However, the Department's performance report of its framework for implementing the Strategy identified many other action items that had not been fully carried out or that had been delayed. For example, the Department had planned to develop a policy specific to waste management by March 2008 and to develop service standards for waste management thereafter. By the end of our audit, the Department had developed only a draft policy and had not developed any standards.

**6.58 Solid waste management.** Under the 1978 *Indian Reserve Waste Disposal Regulations*, no person shall operate a garbage dump or use any land to dispose of, burn, or store waste without a permit that specifies terms and conditions for operating a landfill as well as environmental protection requirements. Permit holders are subject to an inspection before a permit will be renewed. INAC is responsible for issuing permits and enforcing these regulations.

**6.59** According to information provided by INAC, there are about 365 First Nations in British Columbia, Saskatchewan, and Ontario whose land is managed by the *Indian Act*. About 150 of these First Nations have service agreements with municipalities to manage their solid waste. We expected that INAC would have issued at least one landfill permit for each of the remaining First Nations. We found that only 14 permits had been issued (all in Saskatchewan) under the *Indian Reserve Waste Disposal Regulations*. This means that about 200 First Nations in these three provinces should have had permits but did not.

**6.60** The Department has provided funding for the construction, operation, and maintenance of waste management facilities in about 120 First Nations. It therefore had some information on waste management facilities in these communities but had no information on how solid wastes are disposed of in about 80 First Nations.

**6.61** Although INAC has the information to help it identify which First Nations do not have municipal service agreements or waste disposal permits, we found that the Department neither promotes nor conducts significant surveillance on reserves to look for illegal dump sites or garbage burning and is not equipped to monitor compliance, conduct inspections, or enforce the regulations.

**6.62** INAC officials explained that they do not issue permits or conduct surveillance, in part because the regulations are out-of-date and do not reflect the complexity of modern waste management systems. In addition, the Department considers penalties for non-compliance to be ineffectual (dumping or burning garbage without a permit in a residential community can result in a fine of not more than \$100 or a three-month jail sentence, or both). In contrast, if the same activities jeopardize fish habitat, they can bring fines of up to \$300,000 and/or a prison term of a maximum of six months under the *Fisheries Act*.

**6.63** Aside from requirements in the 14 landfill permits issued to First Nations, INAC has not developed any minimum regulatory or other standards for locating, operating, and maintaining landfill sites.

For example, such standards could include minimum distance from a body of water or a residential community. Provincial regulations include such standards, which off reserves.

**6.64 Sewage and other wastewater discharges.** Environment Canada identified the discharge of household sewage and industrial and commercial wastewater into surface water as a significant risk on reserves. Like solid waste, liquid waste falls under the *Indian Reserve Waste Disposal Regulations*. Nevertheless, this is an area where the regulatory gap on reserves is particularly pronounced compared with the province of Ontario. Legislation and regulations in Ontario control sewage and other wastewater entry into groundwater and surface waters through approvals, permits, and other requirements. They cover, among other things, household septic systems and municipal sewage treatment plants. On reserves, there are no comparable regulations or standards in place. Moreover, we found that INAC does not issue permits for sewage treatment and disposal and makes no other effort to apply the existing regulations.

**6.65** INAC and Health Canada have taken some actions to address sewage treatment and disposal. These departments, working with First Nations, developed the national First Nations Water Management Strategy. After a national assessment of the water and wastewater systems on reserves in May 2003, INAC announced the First Nations Water and Wastewater Action Plan in 2008. It also launched an initiative in 2009 to develop a legislative framework for drinking water and wastewater in First Nations communities. Public consultation on this initiative began in February 2009.

**6.66** The *Fisheries Act* includes general provisions that apply throughout Canada and prohibits the release of deleterious substances, including sewage from reserves, into waters frequented by fish. Environment Canada is currently developing new Canada-wide regulations, under the *Fisheries Act*, to mitigate contaminants from community wastewater treatment facilities. These regulations are being developed in conjunction with provincial and territorial governments, with a view to phasing in regulations for all wastewater systems across the country over the next 30 years. Environment Canada expects that these regulations will be published in the *Canada Gazette* by the end of 2010. Environment Canada has indicated that wastewater systems that pose the greatest risk to the environment would have to comply with the new regulatory standards 10 years after the regulations come into effect.

**6.67 Fuel storage tanks.** In 2008, the government promulgated the *Storage Tank Systems for Petroleum Products and Allied Petroleum Products Regulations* under the *Canadian Environmental Protection Act, 1999*. These regulations, scheduled to be fully implemented by June 2012, establish standards for fuel storage tanks and require contingency plans to be in place for environmental emergencies. Under the regulations, fuel storage tanks must be registered by June 2010. Environment Canada, with INAC's participation, provides information on these regulations on its website and in workshops delivered on reserves.

**6.68** In anticipation of these regulations, in 2006 INAC began carrying out an assessment of fuel storage tanks on reserves using funds for assessments of contaminated sites. As of February 2009, it had completed an inventory of 90 percent of fuel storage tanks in British Columbia and 30 percent of tanks in Ontario. In Saskatchewan, the Department had carried out an inventory of 191 fuel storage tanks, focusing only on tanks over 4,000 litres. Later that year, the Department concluded that storage tanks on reserves are not the property of the federal government and therefore the regulations did not require that INAC complete an inventory and register fuel storage tanks on reserves. The Department continued to carry out an inventory of fuel storage tanks in British Columbia and Ontario but stopped collecting information on fuel storage tanks in Saskatchewan.

**6.69 Environmental emergencies.** Another area considered essential for environmental protection is the need to address environmental emergencies. Several provinces, including Ontario, have legal provisions to address environmental emergencies such as spills. For example, in the event of a pesticide spill, a spill report and cleanup would be required. However, such provincial requirements, which apply to spills of pollutants generally, do not apply on reserves.

**6.70** Under the *Environmental Emergency Regulations* of the *Canadian Environmental Protection Act, 1999*, reporting and other remedial actions are required in the event of an accidental release of specified harmful substances. These provisions apply throughout Canada, including on reserve lands.

**6.71** As an additional means of mitigating risk, INAC has signed agreements with some provinces to coordinate planned actions in the event of environmental emergencies.

**6.72 Closing the gap.** The environmental regulatory gap is particularly significant for First Nations that enter into the *First Nations Land Management Act* regime. In entering into this regime, a

First Nation becomes responsible for closing identified gaps in environmental regulations on its reserve. While federal laws will continue to apply on reserves under the FNLMA, the First Nation must develop environmental protection standards and punishments that have at least the same effect as the laws in the province in which it is located. This could mean that the First Nation must develop and implement regulations where the federal government has yet to do so.

**6.73** To develop such regulations, INAC, in conjunction with the First Nation and Environment Canada, must first develop and sign an environmental management agreement. Although some work has begun, no such agreements had been completed by the end of our audit; therefore, none of the 22 First Nations with land codes had developed any environmental regulations. Although First Nations with land codes assume increased responsibilities for environmental management on reserves, without an environmental management agreement they may not have the means and capacity to meet these additional responsibilities.

**6.74** The federal government has the authority to regulate environmental threats on reserves. Environment Canada has conducted 50 inspections on reserves in the last three years related to regulations under the *Canadian Environmental Protection Act, 1999*, and the *Fisheries Act*. INAC informed us that it was not systematically conducting inspections related to the *Indian Reserve Waste Disposal Regulations* under the *Indian Act*. Both departments have also left some other environmental threats unregulated. Passing these responsibilities to First Nations under the FNLMA may not address the risks. This leaves many communities on reserves exposed to conditions that other communities are protected from by regulation and enforcement.

**6.75 Recommendation.** Indian and Northern Affairs Canada and Environment Canada should work together, in partnership with First Nations, to develop and implement a strategy to identify and address residual environmental regulatory gaps on reserves, as required.

**The departments' response.** Agreed. Indian and Northern Affairs Canada and Environment Canada will work together, and in partnership with First Nations, to develop a strategy to identify and close residual regulatory environmental gaps on reserves. However, some of these gaps will require legislative changes.

### Non-regulatory management measures have not worked as planned

**6.76** Aside from regulations, INAC and Environment Canada have other means of managing environmental threats. We assessed two means that INAC uses to address environmental threats on reserves.

**6.77 Environmental provisions in leases to address regulatory gaps.** Over half of First Nations with reserves remain subject to all the land management provisions of the *Indian Act*. For these First Nations, INAC retains full control and responsibility for fulfilling the requirements of the *Indian Act*, such as leasing land for commercial developments like hotels, gas stations, and stores. For new leases, the Department's land management manual commits the Department to ensuring that the condition of the land is evaluated and, if required by law, that an environmental assessment is completed.

**6.78** To determine whether INAC had met these requirements, we looked at a representative sample of 51 of the 936 leases on reserve lands in British Columbia, Saskatchewan, and Ontario that were processed under the *Indian Act* over the past three years.

**6.79** We found that in 60 percent of our sample, the Department did not obtain the required environmental information prior to signing or renewing leases. It therefore might have signed leases with parties without having completed the proper environmental reviews.

**6.80** A standard provision we found in leases states that lessees must respect all applicable environmental laws, including those of provincial governments. Since provincial land management laws do not apply to reserves and there are few federal regulations governing environmental protection on reserves, it is questionable whether a lease clause requiring compliance with applicable environmental regulations provides any increased protection for the environment or human health.

**6.81 Contaminated site liabilities.** As of April 2008, INAC had identified 1,610 contaminated sites on reserves, mostly related to abandoned dumps and fuel spills. Of these, 557 had been classified as high-risk or medium-risk sites and therefore priority sites for cleanup or risk management. Moreover, the number of identified contaminated sites requiring investigation and possible cleanup has been increasing, as INAC continues to add suspected sites to its list. Between April 2008 and April 2009, the Department identified over 270 more suspected contaminated sites on reserves. Its financial liability for contaminated sites on reserves was projected at about \$143 million as of April 2009, up from \$98 million in April 2008.

**6.82** The federal government has a \$3.5 billion cost-shared program to help federal departments address contaminated sites under their responsibility if the contamination occurred before April 1998. The government's objectives are to reduce environmental and human health risks and to eliminate liabilities from these sites by 2020. In the 2008–09 fiscal year, the Department used \$10.8 million from this fund to clean up or manage risks of 58 on-reserve sites. The Department has been identifying additional contaminated sites on reserves more quickly than it has been addressing them.

**6.83** A 2008 evaluation by INAC of its contaminated sites program concluded that the Department will not meet the federal government's 2020 target to eliminate known liability related to sites that became contaminated prior to 1998. According to the evaluation, none of the confirmed high-risk or medium-risk sites on reserves had been fully remediated and no actions had been taken for two thirds of these sites to mitigate the potential risks to health and the environment. The INAC evaluation also raised concerns about the lack of regulatory and enforcement tools to stop the creation of additional contaminated sites on reserves.

**6.84 Recommendation.** Indian and Northern Affairs Canada should develop and implement a plan to remediate, by 2020, high-risk and medium-risk sites on reserves that became contaminated prior to 1998, as the federal government has committed to doing.

**The Department's response.** Agreed. The Indian and Inuit Affairs Contaminated Sites Management Program of Indian and Northern Affairs Canada will continue to work with First Nation communities to assess suspected and known contaminated sites, with the goal of reducing risks to human health and the environment and reducing departmental liabilities.

The Contaminated Sites Management Program is currently on target to meet the 2020 deadline by maintaining an annual 15 percent reduction in the departmental liability related to known contaminated sites. As the program does not have dedicated program funds and has in the past been supported in part through internal reallocation, success in meeting 2020 targets will depend primarily on future levels of funding for the Federal Contaminated Sites Action Plan.

**Funding constraints**      **Insufficient funding has been committed to meet program requirements**

**6.85** Throughout our audit, we found several instances where the federal government had not met its commitments and obligations. The reasons cited by department officials often related to the lack of an identified source of funding to meet commitments.

**6.86 Reserve Land and Environment Management Program (RLEMP).** We found that this initiative was not available to the majority of First Nations and that training was limited to one individual for each First Nation accepted into the program. Department officials explained that the RLEMP is still a pilot program and is not more widely available to First Nations due to a lack of funding. Department officials also noted that the pilot program is due to expire on 31 March 2010. At the end of our audit, Indian and Northern Affairs Canada was seeking new funding to make the program more widely available.

**6.87 First Nations Land Management Act (FNLMA).** The FNLMA was proposed with a funding envelope of more than \$100 million over its first five years. Department officials explained that they had been reallocating about \$16 million per year from other approved programs but this had been insufficient to address all of the Department's responsibilities under this regime. Department officials told us that until dedicated funds are made available, the Department is no longer accepting additional First Nations into the FNLMA regime.

**6.88 Environmental management on reserves.** We found that gaps remain both in the regulations that apply on reserves compared with those off reserves and in the implementation of environmental management actions. INAC officials cited the lack of capacity and resources as among the main inhibitors to enforcing the *Indian Reserve Waste Disposal Regulations* and implementing the Department's Environmental Stewardship Strategy.

**6.89** To work with First Nations under the FNLMA, Environment Canada and INAC signed a five-year memorandum of understanding (MOU) that identified roles and responsibilities for each department to develop environmental management agreements with First Nations that have a land code. Environment Canada has completed some activities under the MOU but withdrew from further participation after less than two years, evoking a provision under the MOU that allows them to withdraw if the required resources have not been secured.

**6.90 Recommendation.** Indian and Northern Affairs Canada and Environment Canada should each assess the funding requirements necessary to fulfill their land management responsibilities on reserves and meet their commitments. Each department should also identify how it will finance these responsibilities.

**Indian and Northern Affairs Canada's response.** Agreed.

The Department is regularly assessing its funding requirements to fulfill land management responsibilities on reserves. To fully implement the *First Nations Land Management Act* regime for current participants and to expand it to a significant number of new participants, the Department would require additional funding in future years.

**Environment Canada's response.** Agreed. The Department is assessing funding requirements for negotiating environmental management agreements under the *First Nations Land Management Act*, and options to address these requirements will be explored. Funding for other land management responsibilities will be assessed as part of the normal annual planning and priority-setting conducted by the Department.

## Conclusion

**6.91** Indian and Northern Affairs Canada (INAC) has developed legislative and program measures to support key elements of land management on reserves. It has provided greater control to First Nations to enable them to address economic development challenges on reserve lands.

**6.92** The *First Nations Land Management Act* (FNLMA) is intended to enable First Nations to make timely business and administrative decisions and to accelerate their progress in economic development, resources management, and land use planning. However, less than a quarter of the First Nations who were expected to take advantage of FNLMA programming have been able to do so. INAC has been unable to fund the full implementation of this program.

**6.93** INAC and Environment Canada have not addressed significant gaps in the regulatory framework that protects reserve lands from environmental threats. Provincial and municipal environmental regulations and zoning laws that protect communities off reserves do not apply to reserve lands.

**6.94** INAC has not met key responsibilities for implementing existing regulations to provide essential environmental protection on First

Nations reserves. While regulations exist under the *Indian Act* to cover solid waste management, most landfill sites on reserves operate without permits, monitoring, or enforcement by INAC. Similarly, while these same regulations apply to liquid waste, INAC does not issue permits or monitor and enforce compliance with the regulations for sewage treatment and disposal.

**6.95** INAC and Environment Canada have not established a regulatory regime that protects the environment of First Nations reserves and that is comparable to the regime provided by provincial laws. They have not filled the regulatory void that occurs when provincial laws governing land management do not apply on reserves; nor have they adequately managed the environmental threats that this void creates.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The objectives of the audit were to determine whether Indian and Northern Affairs Canada (INAC) and Environment Canada

- developed legislative options, programs, and policies in support of First Nations land management and environmental protection; and
- met key responsibilities for implementing federal acts, regulations, programs, and/or policies in support of First Nations land management and provided essential environmental protection of First Nations reserves.

### Scope and approach

The entities included in this audit are INAC and Environment Canada—primarily, the Lands and Economic Development Sector of INAC and the Environmental Stewardship Branch of Environment Canada. We obtained and assessed related documentation and interviewed department officials and land managers in the regional offices.

While First Nations were not subject to audit, we visited selected First Nations and First Nations organizations to obtain their perspectives on land management. First Nations with self-governance agreements and comprehensive land claim agreements were not included in this audit.

We reviewed the three main land management regimes accessible to First Nations: The *Indian Act*, the Reserve Land and Environment Management Program, and the *First Nations Land Management Act*.

We selected three regions in which to conduct our regional audit work: British Columbia, Saskatchewan, and Ontario. These regions had the greatest number of registered land transactions over the past three years.

Environmental management regulatory gaps on reserves cover a broad spectrum. The audit focused on areas identified as essential for First Nations in the Framework Agreement on First Nation Land Management: solid waste management, fuel storage tank management, sewage treatment and disposal, and environmental emergencies. It also focused on the legislation of the federal and Ontario governments most closely related to regulating environmental threats.

For Exhibit 6.2, we examined Ontario regulations related to the province's *Environmental Protection Act*, the *Ontario Water Resources Act*, the *Technical Standards and Safety Act*, the *Building Code Act*, and the *Dangerous Goods Transportation Act*. We compared the regulatory coverage these provided with regulations applicable to reserves from the federal *Indian Act*, *Canadian Environmental Protection Act, 1999*, the

*Fisheries Act*, the *Transportation of Dangerous Goods Act*, and the *Indian Oil and Gas Act*. Regulations from most of these federal acts are equally applicable on and off reserves.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that Indian and Northern Affairs Canada (INAC) would have developed legislative options, programs, and policies to support the management of First Nations lands.	<ul style="list-style-type: none"> <li>• <i>Constitution Act, 1982</i>, section 91(24)</li> <li>• <i>Department of Indian Affairs and Northern Development Act</i>, section 4(a)</li> <li>• Indian and Northern Affairs Canada's mandate (INAC website)</li> <li>• 2009–2010 Indian and Northern Affairs Canada, Program Activity Architecture: Strategic Outcomes—The Land</li> </ul>
We expected that INAC would have developed legislative options, programs, and policies to transfer control over land management to First Nations who request it.	<ul style="list-style-type: none"> <li>• <i>Constitution Act, 1982</i>, section 91(24)</li> <li>• <i>Department of Indian Affairs and Northern Development Act</i>, section 4</li> <li>• <i>Indian Act</i>, section 53(1)</li> <li>• INAC Land Management Manual, Chapter 11</li> <li>• INAC Report on Plans and Priorities 2006–07</li> </ul>
We expected that INAC and Environment Canada would have developed legislative options, programs, and policies related to solid waste management, fuel storage tank management, sewage treatment and disposal, and environmental emergencies comparable with those off reserves.	<ul style="list-style-type: none"> <li>• <i>Canadian Environmental Assessment Act</i>, section 4(1)(c)</li> <li>• <i>Canadian Environmental Protection Act, 1999</i>, Part 9</li> <li>• INAC's Sustainable Development Strategy 2004–2006</li> <li>• INAC's Environmental Stewardship Strategy</li> <li>• INAC's Program Activity Architecture</li> </ul>
We expected that INAC would have met its key responsibilities in processing land transactions under the <i>Indian Act</i> .	<ul style="list-style-type: none"> <li>• Indian and Northern Affairs Canada, Land Management Manual, chapters 7, 8, 11, and 12</li> <li>• INAC's mandate (website)</li> </ul>
We expected that INAC would have transferred control of land management to First Nations who requested it.	<ul style="list-style-type: none"> <li>• <i>Indian Act</i>, sections 53(1) and 60(1)</li> <li>• <i>First Nations Land Management Act</i>, section 6(1)</li> <li>• Reserve Land and Environment Management Program, Backgrounder (INAC website)</li> <li>• Indian and Northern Affairs Canada, Land Management Manual, Chapter 11</li> <li>• INAC Land Management Program, Goals (website)</li> <li>• INAC Report on Plans and Priorities 2006–07</li> </ul>

Criteria	Sources
We expected that INAC would have taken adequate measures to facilitate First Nations taking control over their communities by providing training, tools, and guidance.	<ul style="list-style-type: none"> <li>• <i>Indian Act</i>, section 60(1)</li> <li>• Indian and Northern Affairs Canada, Land Management Manual, Chapter 11</li> <li>• INAC Land Management, Description of Operations (website)</li> <li>• INAC Report on Plans and Priorities, 2006–07 and 2008–09</li> <li>• INAC's Program Activity Architecture</li> <li>• Framework Agreement on First Nation Land Management, paras. 21 and 39.1(e)</li> </ul>
We expected that INAC and Environment Canada would have met their key responsibilities in implementing their legislative options, programs, and policies related to solid waste management, fuel storage tank management, sewage treatment and disposal, and environmental emergencies in place on reserves.	<ul style="list-style-type: none"> <li>• <i>Department of Indian Affairs and Northern Development Act</i>, section 4</li> <li>• <i>Canadian Environmental Protection Act, 1999</i>, Part 1, section 9; Part 3, sections 44.1(a) and 217; and Part 9, sections 208 and 209</li> <li>• <i>Indian Reserve Waste Disposal Regulations</i></li> <li>• Environmental Stewardship Strategy</li> </ul>

Management reviewed and accepted the suitability of the criteria used in the audit.

#### **Period covered by the audit**

We examined legislative options, institutions, and programs developed between March 2005 and May 2009. We examined actions by Indian and Northern Affairs Canada and Environment Canada to transfer control over land management to First Nations and address environmental threats on reserves over the past three years.

Audit work for this chapter was substantially completed on 29 May 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 6. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<p><b>Transfer of control of land management</b></p> <p><b>6.34</b> Indian and Northern Affairs Canada should ensure that First Nations who are ready and who want greater autonomy over their land management can access either the Reserve Land and Environment Management Program or the <i>First Nations Land Management Act</i> regime. (6.14–6.33)</p>	<p><b>The Department's response.</b> Agreed. The Reserve Land and Environment Management Program (RLEMP) began as a pilot program in 2005 and has been funded internally since its inception. Existing authorities were used to allow for a pilot of the RLEMP, limited to First Nations participating in existing programs.</p> <p>Since 1996, a number of First Nations have sought access to the <i>First Nations Land Management Act</i> (FNLMA) regime. In 2002, an amendment to the Framework Agreement on First Nation Land Management was made to allow up to 30 First Nations in the developmental phase of the FNLMA regime at any given time.</p> <p>In March 2008, INAC had to close the FNLMA regime to new entrants due to a lack of funding. The Department is currently seeking additional resources to effectively implement the FNLMA regime for participants and expand it to new First Nations.</p> <p>In summer 2009, a sustainable funding source for the RLEMP was secured through the Aboriginal Economic Development Action Plan. With dedicated funding over four years, INAC will now be able to fully implement this program and allow up to 20 new First Nations per year to enter the RLEMP.</p>

## Recommendation

## Response

**6.47** Indian and Northern Affairs Canada, in collaboration with First Nations, should seek to ensure that an appropriate training program is developed for First Nations in the *First Nations Land Management Act* regime. The Department should also ensure that appropriate training is made available to First Nations in either the Reserve Land and Environment Management Program or the FNLMA regime. This training should address the requirements under each of the respective regimes. (6.35–6.46)

Agreed. The Reserve Land and Environment Management Program (RLEMP) has provided the only professional land management training available to First Nations for the past four years. Program evaluations and reviews of the RLEMP training program have concluded that the design and delivery of the training program are sound, credible, relevant and responsive to the needs of First Nations land managers and their communities.

From 1999 to 2005, Indian and Northern Affairs Canada (INAC) provided funding to the First Nations Land Management Resource Centre to develop a training strategy and curricula that would address the specific capacity requirements of First Nations Land Management First Nations. In 2005, INAC discontinued this funding due to a lack of progress. While the RLEMP training was designed for First Nations managing lands under the *Indian Act*, the Department decided to offer that training on a priority basis to First Nations Land Management First Nations as a temporary measure.

A renewed effort by the Resource Centre to develop training and curricula specific to First Nations Land Management is currently being undertaken and INAC anticipates receiving a proposal to that effect in 2009–2010.

The RLEMP pilot project has been funded internally since its inception in 2005. The necessary sources of funds have not always been identified or available at the beginning of each fiscal year. As a result, there has been a delay in confirming whether the RLEMP training program could be offered in a given year and in notifying students of their acceptance into the training program.

As mentioned previously, a sustainable funding source for the RLEMP was secured in spring 2009 through the Aboriginal Economic Development Action Plan. With dedicated funding for this program over four years, INAC will now be able to engage in the appropriate planning and forecasting required to notify new students slated to participate in the RLEMP training program much sooner than before.

## Recommendation

## Response

**Environmental protection**

**6.75** Indian and Northern Affairs Canada and Environment Canada should work together, in partnership with First Nations, to develop and implement a strategy to identify and address residual environmental regulatory gaps on reserves, as required. (6.48–6.74)

**6.84** Indian and Northern Affairs Canada should develop and implement a plan to remediate, by 2020, high-risk and medium-risk sites on reserves that became contaminated prior to 1998, as the federal government has committed to doing. (6.76–6.83)

Agreed. Indian and Northern Affairs Canada and Environment Canada will work together, and in partnership with First Nations, to develop a strategy to identify and close residual regulatory environmental gaps on reserves. However, some of these gaps will require legislative changes.

Agreed. The Indian and Inuit Affairs Contaminated Sites Management Program of Indian and Northern Affairs Canada will continue to work with First Nation communities to assess suspected and known contaminated sites with the goal of reducing risks to human health and the environment and reducing departmental liabilities.

The Contaminated Sites Management Program is currently on target to meet the 2020 deadline by maintaining an annual 15 percent reduction in the departmental liability related to known contaminated sites. As the program does not have dedicated program funds and has in the past been supported in part through internal reallocation, success in meeting 2020 targets will depend primarily on future levels of funding for the Federal Contaminated Sites Action Plan.

**Funding constraints**

**6.90** Indian and Northern Affairs Canada and Environment Canada should each assess the funding requirements necessary to fulfill their land management responsibilities on reserves and meet their commitments. Each department should also identify how it will finance these responsibilities. (6.85–6.89)

**Indian and Northern Affairs Canada's response.** Agreed. The Department is regularly assessing its funding requirements to fulfill land management responsibilities on reserves. To fully implement the *First Nations Land Management Act* regime for current participants and to expand it to a significant number of new participants, the Department would require additional funding in future years.

**Environment Canada's response.** Agreed. The Department is assessing funding requirements for negotiating environmental management agreements under the *First Nations Land Management Act*, and options to address these requirements will be explored. Funding for other land management responsibilities will be assessed as part of the normal annual planning and priority-setting conducted by the Department.

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**Chapter 7**  
Emergency Management—Public Safety Canada



Office of the Auditor General of Canada



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Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises *Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters*. The main table of contents for the Report is found at the end of this publication.

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# Emergency Management— Public Safety Canada

## Main Points

### What we examined

Emergency management refers to a wide range of measures to protect communities and the environment from risks and to recover from emergency events stemming from either natural or human-induced causes. While some emergencies in Canada can be handled locally by municipalities or provinces, the federal government will assist when requested, when the emergency transcends jurisdictional boundaries, or when its assistance is in the national interest. As emergency events today can escalate quickly, this federal capability has become increasingly necessary.

Through legislation and government policy, Public Safety Canada, which was created in December 2003, is responsible for leading by coordinating the management of emergencies among federal departments and agencies. This includes establishing policies and programs for the preparation, testing and exercising, and implementing emergency management plans; it also includes monitoring and coordinating a common federal approach to emergency response along with the provinces—an “all-hazards” approach incorporating prevention and mitigation, preparedness, response, and recovery. The Department’s responsibility for emergency management includes coordinating the protection of critical infrastructure—from planning for emergencies to recovering from them. Critical infrastructure includes physical and information technology facilities, networks, services, and assets essential to the health and safety or economic well-being of Canadians.

We examined how Public Safety Canada carries out these responsibilities. In addition, we looked at its efforts to enhance emergency response and recovery in coordination with six other departments that have specific roles in emergency management. Our audit included assessing the government’s progress on some of the commitments it made to Parliament. Our audit covers performance of federal departments and agencies and events taking place since our last audit, reported in April 2005, and 15 June 2009.

We did not examine the performance of emergency management efforts by provinces, territories, or local communities.

### Why it's important

The H1N1 pandemic, the 2003 eastern seaboard power blackout, Severe Acute Respiratory Syndrome (SARS), massive flooding, and terrorist conspiracies and attacks have demonstrated that global trade, international travel, and cyberspace have increased the speed at which emergencies escalate in scope and severity. Today, many emergencies can be difficult to contain by a single government department or jurisdiction. A federal response is needed for emergencies that are beyond the capacities of other players—emergencies that may have a low probability of occurrence but a high potential impact.

Public Safety Canada is faced with the challenging task of providing the coordination necessary for an overall federal approach to emergency management, in an environment where departments have operated as needed and through their ministers to provide federal assistance on a case-by-case basis.

### What we found

- Public Safety Canada has not exercised the leadership necessary to coordinate emergency management activities, including critical infrastructure protection in Canada. For example, it has yet to develop the policies and programs that would help clarify its leadership and coordination role for an “all-hazards” approach to the emergency management activities of departments. Public Safety Canada has taken the first step by developing the interim Federal Emergency Response Plan, which it considers to be final although it has not been formally approved by the government. Nor does the Plan include updated or completed definitions of the roles, responsibilities, and capabilities needed for an integrated, coordinated approach to emergency response.
- Public Safety Canada has made considerable progress in improving federal emergency coordination through its Government Operations Centre. It keeps other departments informed of the status of events on a real-time basis and also produces regular situation awareness reports for such issues as the H1N1 virus, which allows decisions to be based on a common set of facts.
- Public Safety Canada has developed a strategy to protect Canada’s critical infrastructure, but this strategy is still in draft form. At the time of our audit, the critical infrastructure that needs to be protected had not yet been determined. Public Safety has moved forward in promoting a consistent approach to protection efforts across government. For example, it has categorized critical

infrastructure into 10 sectors, each headed by a federal department. However, it has not provided those departments with guidance for determining what assets or facilities are critical and require protection.

- Progress has been slow until 2009 on Public Safety Canada's 2004 commitment to develop a cyber security strategy, although threats to computer-based critical infrastructure, including federal information systems, have been growing and evolving. To date, it has identified the key elements of a cyber strategy and initiated action on a list of current cyber security initiatives along with other federal government departments. However, at the time of our audit, no date was planned for obtaining formal approval of the strategy.
- Although the 2004 National Security Policy called for first responders' equipment and communications to be interoperable, key gaps remain for voice communications. This limits the ability of fire, police, and ambulance services to work together and with other jurisdictions in an emergency. The Department has directed little or no funding toward standardizing equipment.

**The Department and the Privy Council Office have responded.** The Department and the Privy Council Office agree with all of the recommendations that are addressed to them. Their detailed responses follow the recommendations throughout the chapter.



## Introduction

**7.1** Emergencies today can have a broader impact than those of the past. Examples of emergencies that have recently affected Canadians include the outbreaks of H1N1 and avian influenza, severe acute respiratory syndrome (SARS), listeriosis, and mad cow disease; the 1998 ice storm in Eastern Canada; and the 2003 power blackout across the eastern seaboard. Urban density, international travel, and global trade have increased the speed at which emergencies can escalate and spread. Today, many emergencies can be difficult to contain, and the impact is likely to be greater. A federal response is needed for those emergencies that are beyond the capacity of municipalities or individual provinces or territories—emergencies that may have a low probability of occurrence but can have a high potential impact. To be able to respond effectively to large-scale emergencies and reduce the potential loss of life and property damage, there needs to be extensive planning and coordination.

**7.2** Under Canada's *Constitution Act, 1867*, provinces and territories have primary responsibility for emergency management within their boundaries. Emergencies such as fires and floods may remain local in nature and, if so, may be effectively managed within the local resources of the municipality and province or territory. If an incident escalates, so do the response activities of various levels of government. At the request of a province or territory or where the type of emergency falls within federal jurisdiction or occurs on federal lands, the federal government provides help to manage and coordinate the response to an emergency. The *Emergency Management Act (2007)* established that the Department of Public Safety and Emergency Preparedness (Public Safety Canada) is responsible for responding to requests for assistance made by provinces and territories and for coordinating the assistance provided by other federal departments and agencies to the provinces and territories.

**7.3** Following the events of September 11, 2001, the Canadian government changed its approach to emergency preparedness and response. At that time, there was a highly decentralized division of responsibilities among federal departments, provinces, and territories. In December 2003, the government created the Department of Public Safety and Emergency Preparedness, bringing together emergency preparedness, national security, and policing responsibilities within one federal department. This restructuring was intended to better integrate public safety efforts and link various federal programs more closely.

**7.4** Building the capability to manage a coordinated federal response to an emergency of national significance is a huge undertaking and cannot be achieved overnight. In the past, federal departments had organized their emergency response actions as situations arose. However, given the changing nature of national emergencies, this is no longer sufficient. Recognizing this, the federal government issued the National Security Policy in April 2004, which called for the federal government to be prepared to play an enhanced role in modern emergency management and to improve collaboration among governments and other entities. The 2004 policy outlined a number of initiatives to enhance the safety and security of Canadians. It identified the need for an “all-hazards” approach, meaning that whether or not the cause of an emergency is malicious, accidental, or natural, the federal government would be prepared to respond. To facilitate this, the policy called for an updated emergency response system in which federal entities would work together in a coordinated manner. As well, it identified the need for federal departments and agencies to be more strongly linked with emergency operations at the provincial, territorial, and local levels.

**7.5** The 2004 National Security Policy, our 2005 audit of national security and emergency preparedness, the House of Commons Standing Committee on Public Accounts, and the Senate Standing Committee on National Security and Defence all called for updated federal legislation to clearly define and ensure adequate emergency management powers and responsibilities for the Minister of Public Safety.

**7.6** In 2005, the *Department of Public Safety and Emergency Preparedness Act* was passed. It stipulates that the Minister of Public Safety is to exercise “leadership at the national level relating to public safety and emergency preparedness.” When she appeared before the Standing Committee on Justice, Human Rights, Public Safety and Emergency Preparedness, the Minister explained that she would be responsible for coordinating the federal response to emergencies, while respecting the Prime Minister’s prerogative in matters relating to national security and to the statutory authorities of other ministers.

**7.7** In January 2007, federal, provincial, and territorial ministers agreed that emergency management would adopt a comprehensive all-hazards approach. This approach would incorporate the four functions of emergency management: prevention and mitigation, preparedness, response, and recovery.

**7.8** In August 2007, the *Emergency Management Act* came into force. It assigns to the Minister of Public Safety the responsibility to “exercise leadership relating to emergency management by coordinating federal emergency management activities” (Exhibit 7.1).

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**Exhibit 7.1 The *Emergency Management Act* dictates specific responsibilities for ministers**

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The *Emergency Management Act* requires the Minister of Public Safety to exercise leadership for emergency management by coordinating emergency management activities among federal departments and agencies, and in cooperation with the provinces and territories.

The Minister’s responsibilities include .

- establishing policies and programs, and providing advice to other departments for the preparation of their emergency management plans;
- analyzing and evaluating emergency management plans prepared by federal entities;
- monitoring potential and actual emergencies and coordinating the federal response to an emergency;
- coordinating federal emergency management activities with those of the provinces, and through the provinces, those of local authorities;
- coordinating the provision of assistance to a province;
- promoting a common approach to emergency management, including the adoption of standards and best practices; and
- conducting exercises and providing emergency management education and training.

As well, other federal ministers are to identify the risks that are within their area of responsibility, including those related to critical infrastructure, and to prepare, maintain, test, implement, and exercise emergency management plans in respect of those risks in compliance with the policies, programs, and other measures established by the Minister of Public Safety.

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Source: Adapted from the *Emergency Management Act*

**7.9** Public Safety Canada is the coordinating agency for federal departments, which have various roles to play in an emergency. Public Safety Canada is to ensure that the federal government is ready to respond to any future emergencies through the development of policies, standards, and plans that define roles and responsibilities. The aim is to eliminate the potential for confusion when responding in a crisis and provide a federal point for coordination.

**7.10** If a department or agency has a clear mandate to respond to an emergency and is responsible to act, it is the subject matter expert. However, if emergencies escalate and spread, other federal departments may be required to play a role to manage the impact within their area of expertise. For example, for an incident involving a terrorist or criminal act, the Royal Canadian Mounted Police (RCMP) would be the primary federal response agency in its law enforcement role. For a natural disaster involving an earthquake or a power outage,

Natural Resources Canada would be the primary subject matter expert. The Public Health Agency of Canada would be the subject matter expert for public health, including infectious diseases, in concert with Health Canada. Other departments or agencies, such as the Canada Border Services Agency, would play a supporting role. In each of these examples, Public Safety Canada plays a coordinating role in helping to receive information and communicate the current situation to other departments and agencies, and to senior officials in the federal government and other jurisdictions.

**7.11** For emergency management, Public Safety Canada had a budget of \$58.5 million and 400 employees for the 2008–09 fiscal year. Many of Public Safety Canada’s emergency management programs are delivered through 11 regional offices. It also manages the federal Government Operations Centre that monitors emerging threats and provides round-the-clock coordination and support to government entities in the event of a national emergency. As well, it oversees the conduct of exercises on emergency management at the national level and an inter-jurisdictional training program for local frontline emergency workers at its Canadian Emergency Management College.

**7.12** Public Safety Canada’s role as the lead department for coordinating federal emergency management includes critical infrastructure protection. Critical infrastructure consists of physical and information technology facilities, networks, services, and assets essential to the health and safety or economic well-being of Canadians, and the effective functioning of government. Examples of critical infrastructure include food, water, and energy supplies; health services; financial systems; and communication networks, including the Internet. Events such as the 1998 ice storm in Eastern Canada and the 2003 power blackout across the eastern seaboard highlight the impact of the failure of the electrical grid. The vast majority of Canada’s critical infrastructure is owned by the private sector or managed through another level of government. This creates a challenge for the federal government to establish its role with owners and operators and thereby ensure the protection and resiliency of the nation’s critical infrastructure.

### Focus of the audit

**7.13** In this audit, we focused on four main responsibilities of Public Safety Canada:

- To establish policies and programs for emergency management plans and operations, provide advice to departments, and evaluate their plans.

- To coordinate the emergency management activities among federal government institutions along with those of the provinces and territories.
- To promote a common approach to emergency management, including the adoption of standards and best practices.
- To coordinate the protection of Canada's critical infrastructure.

**7.14** Specifically, we examined Public Safety Canada's responsibility to lead by coordinating the efforts of other federal entities and by coordinating federal efforts with those of the provinces and territories. We focused mainly on the Department's preparedness efforts, including its coordination of the provision of critical infrastructure protection. As well, we examined progress by Public Safety Canada in enhancing emergency response and recovery in coordination with government departments and agencies.

**7.15** We did not examine the performance of provinces, territories, or local communities in their delivery of emergency management services or activities, nor did we examine provincial and territorial or private sector critical infrastructure protection efforts. We also did not examine the security activities carried out in preparation for the 2010 Olympic and Paralympic Games, as responsibility for these activities was assigned to the Office of the Coordinator for 2010 Olympics and G8 Security, which reports to the National Security Advisor.

**7.16** More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### Establishing policies and programs

### Establishing and exercising federal leadership has been a challenge

**7.17** Public Safety Canada is responsible under legislation to exercise leadership through planning, establishing policies and programs for emergency preparedness, cooperating with provinces and territories, and promoting a common approach to emergency management. It is responsible for coordinating the emergency management activities of various federal departments and agencies and fostering a cooperative approach to responding to emergencies.

**7.18** Because the subject matter expertise and experience for dealing with emergencies resides in several different departments, Public Safety Canada has an important role to ensure that all potential

hazards are addressed, that plans exist and have been shared and tested, and that, during a crisis, the kind of response needed is quickly established without confusion. However, Public Safety Canada does not assume control over other departments or tell them how to do their jobs. Each department remains responsible to its own minister and for acting as required under its own legislation. Public Safety Canada, under the *Emergency Management Act*, is responsible for establishing policies and programs that other ministers must follow in carrying out their emergency management responsibilities and determining how they will be coordinated. Given different mandates and accountabilities, it is important that Public Safety Canada know who it should communicate with and ensure that the various departments know how coordination will proceed and what the expected operating procedures will be. Nevertheless, each department determines whether it will assist during an emergency, what its role will be, and how it will operate with other federal, provincial, or territorial partners.

**7.19** We found that while Public Safety Canada played a coordination role in some emergencies, including participating in the development of response plans for avian and pandemic influenza, it has yet to establish the policies and programs that would help define its leadership and coordination role for emergency management in an all-hazards environment. Defining a leadership role when each department responds to its own ministerial direction, and coordinating that direction with other departments can be a challenge. Nevertheless, Public Safety Canada was established to address these concerns and determine how to coordinate and harmonize the activities of the different departments needed to deal with today's complicated and broad-reaching situations.

**7.20** In order to move forward in its mandate to exercise leadership, Public Safety Canada needs to have experienced and knowledgeable staff in place. Another challenge we noted was that the Department has had difficulty attracting and retaining senior managers to provide the direction needed in its emergency management. This area of Public Safety Canada had an employee vacancy rate of 39 percent in the 2008–09 fiscal year and a vacancy rate of 50 percent the previous year. In April 2009, only 56 percent of senior managers had been in their jobs for more than 18 months. Turnover and change of staff has been particularly problematic, and in the 2008–09 fiscal year, the rate of employee movement (including appointments, promotions, deployments, acting assignments, and departures) was 71 percent in emergency management.

**7.21** In 2006, Public Safety Canada was allocated approximately \$115 million over five years to enhance its core capacity for emergency management; and, in 2008, it was allocated a further \$28 million over five years. In the 2008–09 fiscal year, Public Safety Canada had an annual budget of \$58.5 million for emergency management. However, it had not spent one third of its budget for emergency management in each of the past two years. In this context, it is evident that Public Safety Canada has been unable to develop its capacity for emergency management.

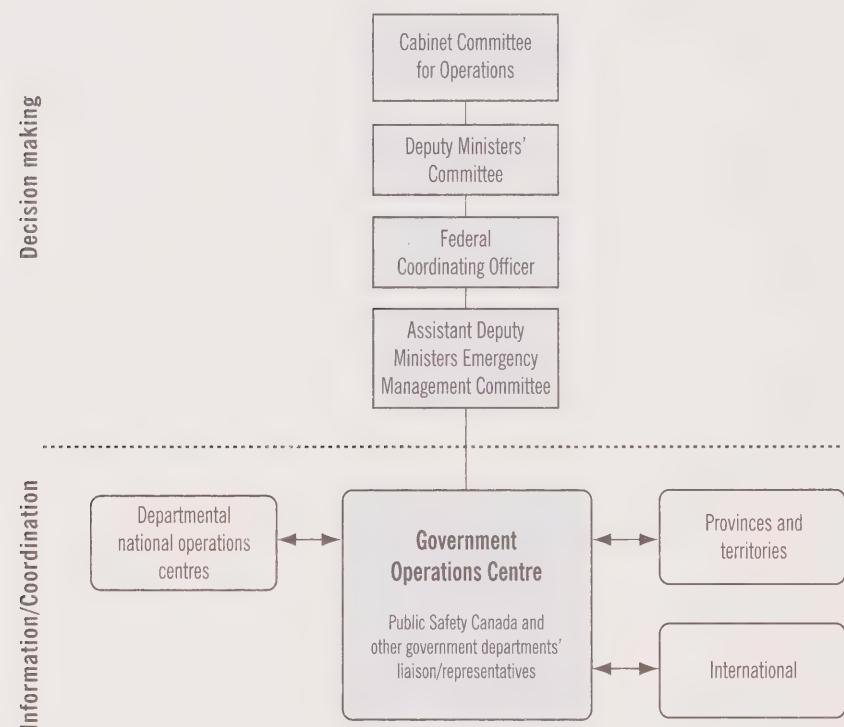
**7.22** In the face of these challenges, Public Safety Canada has taken the first steps toward establishing its leadership role by developing the interim Federal Emergency Response Plan, a framework for coordinating emergency response activities across government. Work has been under way on developing this plan, in various forms, since 2004. In June 2005, the House of Commons Standing Committee on Public Accounts recommended that Public Safety Canada obtain formal support for its plan from other departments. At the time of our audit, the Plan was still an outline of the requirements of an emergency response plan. The Plan has been presented to an interdepartmental committee of assistant deputy ministers. Although it has not been formally approved by Public Safety Canada or endorsed by other departments, officials told us that it is, nevertheless, being considered final.

**7.23** While the framework may be considered complete, the roles and responsibilities and the capabilities (contained in its annexes) needed for an integrated, coordinated approach to emergencies have not been updated or completed. Department officials told us that details on how the federal plan supports provincial and territorial plans and capabilities are being drafted. At the time of our audit, Public Safety Canada expected to share the draft document with provincial and territorial representatives in September 2009. While we recognize that the Federal Emergency Response Plan will always need to be updated to reflect changes in policies and practices, it is a significant policy document that, with formal government approval, would provide proper authority and clear support to Public Safety Canada.

**7.24** The Federal Emergency Response Plan outlines a decision-making process to help coordinate a federal response to emergencies. Since 2006, an interdepartmental assistant deputy ministers' committee for emergency management (now, ADM-EMC) has met regularly to discuss emergency management priorities and to make decisions to guide federal government actions during emergencies. Depending on the severity of a situation, this committee

may make decisions, or may refer the issue to the Federal Coordinating Officer (usually the Deputy Minister of Public Safety), who may refer the issue to a committee of deputy ministers. Similarly, the issue may be referred to Cabinet or, ultimately, to the Prime Minister. The federal emergency response structure is summarized in Exhibit 7.2. The ADM-EMC is co-chaired by Public Safety Canada and the Privy Council Office to facilitate the sharing of information should decisions need to be taken to a higher level. The ADM-EMC has served as the coordinating body for events such as the 2007 floods in British Columbia and the H1N1 virus pandemic in 2009.

**Exhibit 7.2 Information coordination and decision making for emergency response set out in the Federal Emergency Response Plan**



Source: Adapted from the Federal Emergency Response Plan (April 2009)

**7.25** As part of our audit, we reviewed federal responses to six emergencies that occurred between August 2006 and May 2009, where multiple federal departments were involved and for which after-action reports were available. We tried to determine whether the Federal Emergency Response Plan was used as the framework for a coordinated response. In each of these cases, the Government Operations Centre was used to varying degrees to share information

and analysis among entities. However, the ADM-EMC, the body responsible for coordinating the federal response to an emergency, did not meet to discuss possible responses during three of these six emergencies. According to after-action reports prepared by participating departments for these emergencies, there were problems in coordinating the federal response among departments and agencies in all cases. Roles and responsibilities needed to achieve a coordinated approach were not well understood and some established practices were not followed. At the time of our audit, the ADM-EMC intended to clarify roles and responsibilities in its decision-making process.

**7.26 Recommendation.** The Privy Council Office and Public Safety Canada should ensure that all components of the Federal Emergency Response Plan are completed and should obtain government approval for the plan.

**The Privy Council Office and the Department's response.** Agreed. The Privy Council Office and Public Safety Canada will seek approval for the completed Federal Emergency Response Plan (FERP) at the earliest possible date and the supporting Emergency Support Functions (ESFs) prior to the end of the 2009–10 fiscal year. Public Safety Canada will seek approval of the National Emergency Response System (NERS), an annex to the FERP, which articulates how the FERP supports provincial and territorial emergency response plans, by the end of August 2010. Public Safety Canada will organize information sessions with departmental executive committees to brief departments on the FERP and their associated roles and responsibilities. The FERP and its components will be maintained as an evergreen document.

#### A consistent risk management approach is lacking

**7.27** In order to be ready to respond, emergency management plans need to address the most important risks. In 2007, the Deputy Ministers' Committee directed Public Safety Canada to assess the federal government's state of readiness for a national emergency. Through this review process, a number of **capability gaps** were identified; however, Public Safety Canada did not have a framework upon which to prioritize or rank the severity of the gaps and, as a result, has not moved forward with an action plan to address these gaps. As well, the review found that Public Safety Canada lacked an all-hazards risk assessment that identified potential hazards to public safety or security—whether malicious, natural, or accidental. It also lacked a framework to determine required capabilities to respond to these risks.

**Capability gap**—The gap between available resources and the desired result, which in this case is a timely and effective response to an emergency.

**7.28** The 2004 National Security Policy and the 2007 *Emergency Management Act* recognized that the federal government needed to better understand Canada's vulnerability to emerging risks and use this information to develop comprehensive emergency plans and programs. Under the *Emergency Management Act*, federal departments are to identify risks that are within their area of responsibility, and prepare emergency plans in respect of those risks according to the policies established by Public Safety Canada. Under its leadership role for emergency management activities, Public Safety Canada is to coordinate risk assessments in collaboration with other federal departments and to ensure that they have proper emergency management plans and preparedness measures in place.

**7.29** We found that Public Safety Canada has made limited progress in developing the guidance that departments need to achieve a consistent approach when identifying their risks and their emergency management plans and programs. A comprehensive risk and vulnerability assessment to guide the development of plans and response capabilities under an all-hazards approach has not been conducted in Canada. A Public Safety Canada study conducted in 2008 of 36 federal departments found wide variation in the risk assessment processes used by departments to guide the development of plans and capabilities. Some departments had no process in place. In the six federal departments we examined, we found that none had received any guidance from Public Safety Canada on conducting risk assessments for emergency planning, yet all of these departments were working to update their plans. Public Safety Canada initiated a project in April 2009 to streamline and validate these risk assessment processes for emergency planning and capabilities development. This project is in the preliminary planning stage.

**7.30** The *Emergency Management Act* stipulates that Public Safety Canada is responsible for reviewing departmental emergency management plans, which includes departmental business continuity plans. These plans are needed so that federal organizations can continue operating during an emergency. Under the *Emergency Management Act*, Public Safety Canada is responsible for ensuring that business continuity plans are complementary and meet the overall needs of the federal government. It had provided a self-assessment tool for departments to review their own business continuity plans. However, at the time of our audit, Public Safety Canada had not formally analyzed or evaluated departmental business continuity plans, nor did it have plans to do so. It had not determined whether there were gaps between departments.

**7.31 Recommendation.** As stipulated in the *Emergency Management Act*, Public Safety Canada should establish policies and programs and provide advice for departments to follow when identifying risks and developing their emergency management plans.

**The Department's response.** Agreed. In keeping with the all-hazards approach to emergency management, Public Safety Canada is leading the development of an Emergency Management Planning Framework that will provide departments and agencies with guidance, tools, and best practices for developing emergency management plans. It is also working with federal departments to develop an all-hazards risk assessment framework. Under the *Emergency Management Act*, it is the responsibility of each minister accountable to Parliament for a government institution to identify the risks that are within or related to his or her area of responsibility.

**7.32 Recommendation.** As stipulated in the *Emergency Management Act*, Public Safety Canada should analyze and evaluate the emergency management plans prepared by departments to ensure that they are prepared according to the policies, programs, and advice provided, and it should identify potential gaps or risks to a coordinated emergency management response.

**The Department's response.** Agreed. Public Safety Canada is developing the Emergency Management Planning Framework, which will include performance measurements that will allow Public Safety Canada to analyze and evaluate emergency management plans produced by departments and agencies. The Framework will also include self-assessment tools for departments and agencies. Public Safety Canada is currently developing an approach to implement this initiative.

## Coordinating federal emergency management

**There has been progress in developing a government operations centre**

**7.33** In 2004, Public Safety Canada established the Government Operations Centre as the core of its federal coordination efforts for events of national significance. The role of the Government Operations Centre is not to act as a decision-making body in an emergency response, but to assemble and communicate information to decision makers. It is connected with the operations centres of 20 federal departments and agencies, as well as with those of the provinces and territories, and other countries, including the United States.

**7.34** The Government Operations Centre has coordinated information and analysis among federal departments and provinces

for numerous events since its inception. The scope of the emergency determines the scale and extent of its functions. However, it has not clearly defined when or why its level of activation changes in response to the severity of events and what this means for participating departments. A government-wide exercise, conducted in February 2009 by Public Safety Canada, found that information analysis and sharing at the operations centre was poor. Furthermore, officials at Public Safety Canada told us that the Government Operations Centre did not have the physical facilities to support the number of staff needed to keep the operations centre fully functional for a major emergency lasting an extended period of time. Public Safety Canada was in the process of determining what corrective actions were needed as we completed our audit work.

**7.35** Public Safety Canada has made considerable progress in federal emergency coordination through its Government Operations Centre, as the centre operates on a continual basis and can track many potential or evolving events. It keeps other departments informed of the status of events on a real-time basis and alerts them if the events escalate into a more serious situation. The centre produced regular situation awareness reports for such issues as the H1N1 virus pandemic and Manitoba's spring flooding in 2009, which allowed decisions to be based on a common set of facts. We noted that the Government Operations Centre reviewed how well it performed after events, but this was a verbal process. Results from these reviews are not normally tracked or monitored to ensure that corrective action is implemented.

#### **Lessons learned have not been used to improve emergency response**

**7.36** In order for response plans to be reliable during an emergency, they must be regularly exercised, especially the plans for coordination between departments and agencies and between different levels of government. The National Security Policy and the *Emergency Management Act* call for regular exercises to assess the adequacy of emergency response plans in various scenarios. In 2004, the National Exercise Division was established within Public Safety Canada, with resources dedicated to staging regular national exercises at the federal, provincial, and municipal levels and consolidating lessons learned to improve future performance.

**7.37** Over the past three years, Public Safety Canada budgeted a total of \$17.1 million to plan and conduct exercises related to emergency management across the federal government and with the provinces and municipalities, as well as to share lessons learned and best practices with exercise participants. However, over half of the budget

allocated to national exercises was not spent in each of the last three fiscal years. Public Safety Canada maintains a calendar that lists exercises planned among federal departments and has developed a framework for federal departments and agencies to coordinate their national exercise efforts. Since April 2005, Public Safety Canada has coordinated five federal exercises, shared in the coordination of eight multi-jurisdictional exercises, and participated in an additional two exercises. However, we found that exercises were designed to meet the training objectives of individual departments, rather than to test the government's overall coordination or readiness for a national emergency against identified risks. Public Safety Canada recognizes the need to increase the number of federal and multi-jurisdictional exercises.

**7.38** In response to our April 2005 audit, Public Safety Canada committed to consolidating, on an ongoing basis, the results of lessons learned; however, at the time of our audit, it had not done so. The Department provided us with after-action reports for 14 of the exercises it coordinated or participated in since April 2005, but observations and recommendations from these reports were not systematically collected and used to improve emergency plans and operations.

**Coordination is unclear for responses to chemical, biological, radiological, nuclear, or explosives emergencies**

**7.39** Following the events of September 11, 2001, Canada focused its attention on the significant threats posed by terrorist attacks and on the need to enhance readiness against emergencies caused by people, whether deliberate or accidental. In Budget 2001, the federal government allocated \$513 million over six years to federal departments and agencies to improve their ability to respond to chemical, biological, radiological, or nuclear (CBRN) events, as these types of emergencies are beyond the response capacity of provinces, territories, and municipalities. Public Safety Canada receives \$2.7 million annually for CBRN training. The initiative is currently being expanded to include the possibility of a threat due to explosives (CBRNE).

**7.40** We examined the status of efforts made to improve CBRNE response capability, where a coordinated and integrated approach among federal departments, as well as provincial and local jurisdictions, is essential to success. To enhance the capacity of local emergency workers to respond to a CBRNE event, Public Safety Canada leads a training program for **first responders** from municipal, provincial, and territorial governments, with a combined annual

**First responders**—The police officers, firefighters, and emergency medical service workers who are the first to respond to an emergency.

federal budget of \$12 million. From April 2003 to April 2009, it had trained 1,854 local first responders to assist during an event, and a further 10,400 had received awareness training. While Public Safety Canada has administered participant questionnaires and consulted experts and other government departments, it has not conducted a formal needs analysis for its first responder training.

**7.41** In 2002, a federal team was established to prepare for and respond to potential CBRNE events, combining the efforts of the RCMP and National Defence; at the time, Health Canada; and, since 2004, the Public Health Agency of Canada. We expected that Public Safety Canada would lead the efforts of these departments, and we looked for evidence of joint planning and execution to develop the capabilities needed for a coordinated response and recovery.

**7.42** Public Safety Canada is responsible for setting the overall federal policy on CBRNE issues. In 2005, it issued a federal strategy, identifying the roles and responsibilities of federal departments and agencies for an effective response to these types of emergencies. However, it did not address how federal departments and agencies would coordinate their resources with those of the provinces, territories, and municipalities to assist them in a national emergency, nor has it expanded the strategy to include explosives. At the time of our audit, Public Safety Canada was consulting with the provinces and territories to develop a national CBRNE strategy that included their responsibilities.

**7.43** While the current strategy states that the government is to take all possible measures to pre-empt, prevent, mitigate, and respond effectively to a potential CBRNE incident, it has not identified the desired capability, mandate, roles, or priorities for crisis or consequence management for the responsible federal organizations. The role of the federal CBRNE team is to manage the crisis phase of an emergency; however, the team does not have the resources to manage the after effects of a CBRNE incident, including assisting in mass casualty evacuation, medical aid, or decontamination. In August 2008, the three departments involved in the federal CBRNE response team informed Public Safety Canada of their concerns with the team's mandate, capacity, training, and the compatibility of communications equipment. While the responsibilities of each team member were clear, there were no defined operational protocols or agreements on how the team would work together in a coordinated manner. Team members felt that it was the responsibility of Public Safety Canada to define protocols and formalize agreements among members. At the time of our audit, these issues had not been resolved. Public Safety Canada

officials told us that the role it could play in this type of emergency is unclear, as the three departments on the federal CBRNE team have the expertise, resources, and responsibility, while Public Safety Canada has none of these.

**7.44 Recommendation.** As stipulated in the *Emergency Management Act*, Public Safety Canada should ensure that its coordination role for the federal response to an emergency is well-defined and that the operational policies and plans that departments will follow are updated and consistent.

**The Department's response.** Agreed. Public Safety Canada will maintain the Federal Emergency Response Plan and its components as an evergreen document. This includes ensuring the development of policies and event-specific plans that outline operational protocols and departmental roles and responsibilities, and reviewing these plans to ensure a coordinated approach as necessary.

## Promoting a common approach for response

### Standards to promote interoperability are still under development

**7.45** The 2004 National Security Policy called for equipment and communications to be interoperable or compatible so that first responders could work together better. In response to our 2005 audit chapter, Public Safety Canada agreed to collaborate with a research group to develop standards for equipment for use in chemical, biological, radiological, or nuclear emergencies. The equipment is used in a variety of emergency response situations, and it includes fire and heavy urban search and rescue vehicles, personal suits, gear worn by first responders to protect against hazardous materials, and communications systems.

**7.46** First responders have identified voice communications as the main constraint to their interoperability. Capability gaps remain in communications interoperability that limit the ability of fire, police, and ambulance services to talk to one another and to communicate across jurisdictions during an emergency. Public Safety Canada officials told us that its role is not to establish standards but to assist first responder groups that purchase and use the equipment to develop their own standards. Public Safety Canada completed a draft document on a national approach for communications interoperability but has yet to present the draft to provincial officials for approval. For other types of equipment, Public Safety Canada is currently assisting groups to establish standards for personal protective equipment.

**7.47** As noted in our 2005 audit, while the federal government could use directed funding to promote standardized equipment, officials told us that it has not done more due to a lack of resources. About \$5 million in federal funding is available through an existing cost-shared program. Under this program, choices of equipment purchases are left to the provinces.

## Protecting critical infrastructure

### A strategy for protecting critical infrastructure has been slow to develop

**7.48** Public Safety Canada is the lead federal department for coordinating the protection of Canada's critical infrastructure. Critical infrastructure consists of those physical and information technology facilities, networks, services, and assets that, if disrupted or destroyed, would have a serious impact on the health, safety, and security or economic well-being of Canadians or the effective functioning of governments in Canada. The *Emergency Management Act* stipulates that the Minister of Public Safety is to provide advice and to analyze and evaluate federal departmental emergency management plans, which include critical infrastructure plans.

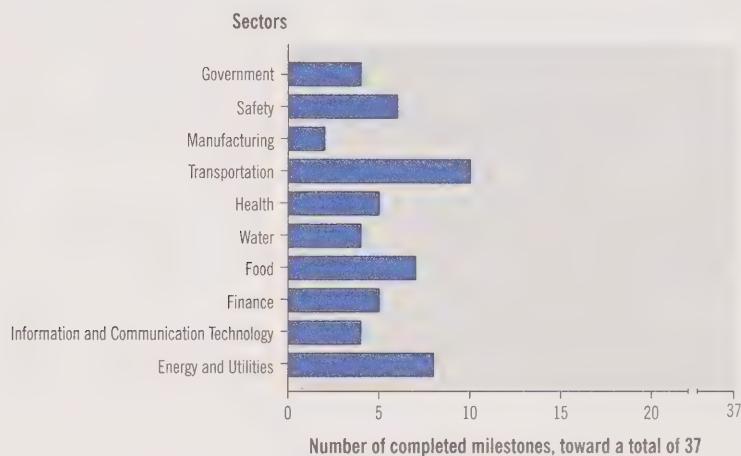
**7.49** We examined whether Public Safety Canada was providing a leadership role in developing and implementing a national strategy for critical infrastructure protection. Namely, we examined its initiatives to provide advice and promote standards to other federal and provincial or territorial authorities.

**7.50** In February 2001, the federal government identified the need to provide national leadership to protect Canada's critical infrastructure from the risks of failure or disruption. Following the terrorist attacks in the United States on September 11, 2001, the federal government allocated \$190 million over five years to improve critical infrastructure protection and emergency management capacity across the federal government. In 2004, the National Security Policy directed the federal departments to work with provinces, territories, and the private sector on initiatives to improve national capabilities to protect critical infrastructure. In its 2004–05 Report on Plans and Priorities, Public Safety Canada committed to the development and release of a National Strategy for Critical Infrastructure by spring 2005.

**7.51** While not meeting its target date in 2005, Public Safety Canada started to work with provinces, territories, and the private sector to develop a plan to implement a proposed National Strategy for Critical Infrastructure. In the strategy, 10 key sectors involved in critical infrastructure were identified, and federal departments were designated to head each sector. We found that Public Safety Canada

has consulted with representatives of government and private sector organizations in order to draft the National Strategy for Critical Infrastructure. It expects that implementation will take three years once the strategy is formally approved. Department officials told us that they are continuing to work on implementation while they await formal approval. From its monitoring, Public Safety Canada found that progress was more advanced in some sectors than in others toward completion of the 37 milestones necessary for their emergency management to be fully operational (Exhibit 7.3).

**Exhibit 7.3 The 10 critical infrastructure sectors show varied progress toward their emergency management being operational**



Source: Based on data provided by Public Safety Canada

**7.52** At the time of our audit, Public Safety Canada had started to develop guidance to promote a consistent approach to critical infrastructure risk assessments and protection efforts. However, this guidance had not been finalized or distributed to departments designated to head the sectors. We found that, in the absence of guidance from Public Safety Canada, departments have been developing their own approaches, without the assurance that they will result in plans that are coordinated and consistent across government.

#### **Canada's critical infrastructure remains undetermined**

**7.53** With the proposed critical infrastructure strategy, Public Safety Canada has taken the first step toward getting a complete picture of the infrastructure considered important at the federal, provincial, and municipal levels. However, to get this picture requires input from many

different partners in government and the private sector. At the time of our audit, the critical infrastructure that needs to be protected had not yet been determined. Public Safety Canada had begun to map the infrastructure of 14 major Canadian cities. However, none of this information had been validated for its significance at the federal level. While certain assets may be deemed critical to an industry, municipality, province, or territory, those assets may not be critical at the federal or national level. This information is key for industry and all levels of government to allocate resources and develop their own protection plans.

**7.54** There have been challenges to progress, specifically

- the determination of which critical infrastructure needs protection;
- the determination of what resources are available to protect critical infrastructure at the federal, provincial, and territorial levels and of where weaknesses or gaps exist; and
- hesitation on the part of private sector owners and operators of some infrastructure to share information that would identify potential vulnerabilities that could provide competitors with an advantage.

**7.55** While Public Safety Canada can move forward to develop policies and programs without resolving these issues, the unresolved issues will remain an impediment to achieving full success if they are not addressed. The proposed national strategy includes information sharing and protection as a key strategic objective, and the *Access to Information Act* has been amended to protect critical infrastructure information supplied by third parties. However, department officials at Public Safety Canada told us that, while they can provide advice and coordination to departments, it is the responsibility of operational departments to identify Canada's critical infrastructure and determine how it should be protected before a national, coordinated approach can be implemented.

**7.56** Public Safety Canada has provided no guidance to departments to ensure that they determine what critical infrastructure needs to be protected. Furthermore, there is little guidance to departments responsible for sectors to determine what assets or facilities are critical to the federal government. This information is essential for a coordinated approach to critical infrastructure protection.

### The energy and utilities sector is making progress on protecting critical infrastructure

**7.57** We examined the energy and utilities sector in more detail as it was seen to have made considerable progress in efforts to identify and protect critical infrastructure. Led by Natural Resources Canada, the sector is organized and has regular meetings and classified briefings to industry and government officials.

**7.58** Natural Resources Canada is in the process of adding infrastructure information to maps, including not only pipelines and transmission lines, but also railways, telecommunications, and strategic buildings and structures. While these efforts are expected to complement the proposed national strategy, we note that this project was developed separately from Public Safety Canada, which has since initiated its own separate mapping of critical infrastructure.

### Cyber security has recently received more attention, but significant challenges remain

**7.59** Threats to computer-based critical infrastructure, including federal information systems, are evolving and growing. In April 2009, the Minister of Public Safety stated that there have been repeated attacks against this country's computer systems. These cyber attacks may be initiated by individuals or groups and may be unintentional, amateur, or foreign state-sponsored espionage and information warfare, and present an ever-changing and evolving threat. Cyber attacks could have very damaging consequences. For example, computer and communications networks are used to control such things as our electrical grid, with varying vulnerabilities. Recently, the United States and the United Kingdom have significantly increased their efforts to fight cyber threats.

**7.60** Public Safety Canada is in the process of developing a cyber security strategy—a commitment first made in the 2004 National Security Policy. While it has been working on a draft strategy, at the time of our audit, it had no date scheduled for its formal approval. Although the commitment was made in 2004, progress has been slow until this past year. Public Safety Canada has identified the key elements of a cyber strategy and has initiated action on a list of current cyber security initiatives along with other federal government departments.

**7.61 Recommendation.** Based on the responsibilities outlined in the *Emergency Management Act*, Public Safety Canada should provide policies and guidance for departmental sector heads to determine their

infrastructure and assess its criticality, based on risk and its significance to the safety and security of Canadians; it should establish policies and programs to prepare plans to protect the infrastructure.

**The Department's response.** Agreed. Based on the responsibilities outlined in the *Emergency Management Act*, Public Safety Canada will provide tools and guidance for sectors to determine their processes, systems, facilities, technologies, networks, assets, and services. Public Safety Canada will also provide tools and guidance for departmental sector heads to assess the infrastructure's criticality based on risks and its significance to the safety and security of Canadians, and will establish policies and programs to prepare plans for their protection.

## Conclusion

**7.62** We found that Public Safety Canada has not exercised the leadership necessary to coordinate emergency management activities, including protection of critical infrastructure in Canada. While it has a challenging role, Public Safety Canada still needs to develop the policies and programs that would help clarify its leadership and coordination role for the emergency management activities of operational departments. Public Safety Canada has taken the first step by developing the interim Federal Emergency Response Plan. In our opinion, to make further progress, the plan would benefit from formal government approval and a better definition of roles and responsibilities of all players, as well as the capabilities needed for an integrated, coordinated approach to emergency response.

**7.63** Public Safety Canada has drafted a strategy to protect Canada's critical infrastructure, but it has not been formally approved. However, at the time of our audit, the critical infrastructure that needs to be protected had not yet been determined. It has categorized critical infrastructure into 10 sectors, each headed by a federal department.

**7.64** We found that Public Safety Canada had made slow progress until this past year on its 2004 commitment to develop a cyber security strategy, although threats to computer-based critical infrastructure, including federal information systems, are evolving and growing. While it has been working on a draft strategy, at the time of our audit, it had no date scheduled for its formal approval. Public Safety Canada has identified the key elements of a cyber security strategy and has initiated action on a list of current cyber security initiatives along with other federal departments and agencies.

**7.65** Over the period of our audit, Public Safety Canada, along with other federal departments and agencies, had made limited progress in enhancing the response to and recovery from emergencies in a coordinated manner. However, their rate of progress has improved, especially in the past year. Public Safety Canada has established a Government Operations Centre, which is connected to other federal departments and agencies. The centre has enabled Public Safety Canada to make considerable progress in coordinating response activities in times of crisis, as it keeps other departments informed of the status of events on a real-time basis. It also produces regular situation awareness reports for such issues as the H1N1 virus, which allow decisions to be based on a common set of facts. However, improvements can be made in identifying and implementing lessons learned from real emergencies and exercises. In its responsibility as the lead federal department for emergency management policies and plans, including chemical, biological, radiological, nuclear, and explosives, Public Safety Canada has not clarified the decision-making processes and operational protocols for emergency response activities.

**7.66** Public Safety Canada is making progress in promoting standards for personal protective equipment used in responding to emergencies. However, key interoperability gaps remain for voice communications, limiting the ability of various fire, police, and ambulance services to work together in an emergency. The Department has directed little or no funding toward standardizing equipment.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The objectives of this audit were to

- determine whether Public Safety Canada can demonstrate that it has exercised leadership by coordinating emergency management activities, including critical infrastructure protection in Canada; and
- determine whether Public Safety Canada, along with federal departments and agencies, can demonstrate progress in enhancing the response to and recovery from emergencies in a coordinated manner.

### Scope and approach

This audit examined federal efforts to improve the nation's readiness and resiliency to respond to incidents or attacks, through improved coordination of emergency management activities at the federal level, and through work with provinces and territories to achieve unified and integrated response and recovery operations. While the focus of the audit was Public Safety Canada, audit work was also conducted at the Privy Council Office, National Defence, the Royal Canadian Mounted Police, the Public Health Agency of Canada, Health Canada, Natural Resources Canada, the Canadian Food Inspection Agency, and the Canada Border Services Agency.

We followed up on selected recommendations made in our April 2005 chapter, National Security in Canada, regarding emergency preparedness, including response capabilities for a chemical, biological, radiological, or nuclear event. Public Safety Canada has the lead responsibility for addressing the majority of these recommendations. We also followed up on selected recommendations from the June 2005 House of Commons Standing Committee on Public Accounts report that supported our audit chapter with several recommendations to federal departments.

The audit did not examine emergency management activities of the provinces and territories; it focused on Public Safety Canada's coordination of emergency management among federal departments along with the provinces and territories. The audit did not examine the security activities carried out in preparation for the 2010 Olympic and Paralympic Games as responsibility for these activities was assigned to the Office of the Coordinator for 2010 Olympics and G8 Security reporting to the National Security Advisor.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
We expected that Public Safety Canada would exercise leadership by coordinating federal emergency management activities, as described in legislation and policies.	<ul style="list-style-type: none"> <li>• <i>Department of Public Safety and Emergency Preparedness Act</i></li> <li>• <i>Emergency Management Act</i>, sections 3 and 4</li> <li>• National Security Policy (2004), page 22</li> </ul>
We expected that Public Safety Canada would coordinate federal emergency management activities with those of the provinces and territories to provide timely and coordinated support to communities in an emergency.	<ul style="list-style-type: none"> <li>• <i>Emergency Management Act</i>, section 4.1(f)</li> <li>• National Security Policy (2004), page 25</li> </ul>
We expected that Public Safety Canada would regularly test and exercise federal emergency management plans.	<ul style="list-style-type: none"> <li>• <i>Emergency Management Act</i>, section 4.1(a)</li> <li>• National Security Policy (2004), page 27</li> <li>• National Security in Canada: Report of the Standing Committee on Public Accounts, June 2005, page 10</li> </ul>
<p>We expected that Public Safety Canada would have a risk-based plan to lead and coordinate critical infrastructure protection efforts, and to reduce vulnerability to cyber attacks and accidents, by</p> <ul style="list-style-type: none"> <li>• adopting an all-hazards approach</li> <li>• agreeing upon roles and responsibilities for the federal government and others</li> <li>• determining what critical infrastructure should be protected</li> <li>• assessing the threats and risks to these assets</li> <li>• prioritizing risks and resources to protect critical infrastructure</li> <li>• implementing protective programs</li> <li>• developing measures to monitor and assess effectiveness</li> </ul>	<ul style="list-style-type: none"> <li>• National Security Policy (2004), page 26</li> <li>• Public Safety Canada, Securing an Open Society: One Year Later (2005), page 23</li> <li>• <i>Emergency Management Act</i>, sections 3 and 4</li> </ul>
We expected that Public Safety Canada and selected federal entities would use a risk-based approach to identify the resources needed and to coordinate the response to and recovery from emergencies.	<ul style="list-style-type: none"> <li>• <i>Emergency Management Act</i>, sections 4 and 6</li> <li>• Treasury Board of Canada Secretariat, Management Accountability Framework, Round V—Risk Management, sections 9.1 to 9.4</li> <li>• Treasury Board of Canada Secretariat, Integrated Risk Management Framework</li> </ul>

Criteria	Sources
We expected that Public Safety Canada would promote a common approach to emergency management, including the adoption of standards and best practices.	<ul style="list-style-type: none"> <li>• <i>Emergency Management Act</i>, section 4</li> <li>• National Security Policy (2004), page 26</li> </ul>
We expected that Public Safety Canada, together with its federal partners, would provide emergency management training, based on a needs assessment and risk-based plan.	<ul style="list-style-type: none"> <li>• <i>Emergency Management Act</i>, section 4(1)(n)</li> <li>• Government of Canada, The Budget Plan 2001, page 100</li> </ul>

Management reviewed and accepted the suitability of the criteria used in the audit.

#### **Period covered by the audit**

This audit covers the performance of federal departments and agencies and events taking place since our last audit of this subject reported in April 2005.

Audit work for this chapter was substantially completed on 15 June 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 7. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<b>Establishing policies and programs</b>	
<p><b>7.26</b> The Privy Council Office and Public Safety Canada should ensure that all components of the Federal Emergency Response Plan are completed and should obtain government approval for the plan. (7.17–7.25)</p>	<p><b>The Privy Council Office and the Department's response.</b> Agreed. The Privy Council Office and Public Safety Canada will seek approval for the completed Federal Emergency Response Plan (FERP) at the earliest possible date and the supporting Emergency Support Functions (ESFs) prior to the end of the 2009–10 fiscal year. Public Safety Canada will seek approval of the National Emergency Response System (NERS), an annex to the FERP, which articulates how the FERP supports provincial and territorial emergency response plans, by the end of August 2010. Public Safety Canada will organize information sessions with departmental executive committees to brief departments on the FERP and their associated roles and responsibilities. The FERP and its components will be maintained as an evergreen document.</p>
<p><b>7.31</b> As stipulated in the <i>Emergency Management Act</i>, Public Safety Canada should establish policies and programs and provide advice for departments to follow when identifying risks and developing their emergency management plans. (7.27–7.30)</p>	<p><b>The Department's response.</b> Agreed. In keeping with the all-hazards approach to emergency management, Public Safety Canada is leading the development of an Emergency Management Planning Framework that will provide departments and agencies with guidance, tools, and best practices for developing emergency management plans. It is also working with federal departments to develop an all-hazards risk assessment framework. Under the <i>Emergency Management Act</i>, it is the responsibility of each minister accountable to Parliament for a government institution to identify the risks that are within or related to his or her area of responsibility.</p>

**Recommendation****Response**

**7.32** As stipulated in the *Emergency Management Act*, Public Safety Canada should analyze and evaluate the emergency management plans prepared by departments to ensure that they are prepared according to the policies, programs, and advice provided, and it should identify potential gaps or risks to a coordinated emergency management response. (7.27–7.30)

**The Department's response.** Agreed. Public Safety Canada is developing the Emergency Management Planning Framework, which will include performance measurements that will allow Public Safety Canada to analyze and evaluate emergency management plans produced by departments and agencies. The Framework will also include self-assessment tools for departments and agencies. Public Safety Canada is currently developing an approach to implement this initiative.

**Coordinating federal emergency management**

**7.44** As stipulated in the *Emergency Management Act*, Public Safety Canada should ensure that its coordination role for the federal response to an emergency is well-defined and that the operational policies and plans that departments will follow are updated and consistent. (7.33–7.43)

**The Department's response.** Agreed. Public Safety Canada will maintain the Federal Emergency Response Plan and its components as an evergreen document. This includes ensuring the development of policies and event-specific plans that outline operational protocols and departmental roles and responsibilities, and reviewing these plans to ensure a coordinated approach as necessary.

**Protecting critical infrastructure**

**7.61** Based on the responsibilities outlined in the *Emergency Management Act*, Public Safety Canada should provide policies and guidance for departmental sector heads to determine their infrastructure and assess its criticality, based on risk and its significance to the safety and security of Canadians; it should establish policies and programs to prepare plans to protect the infrastructure. (7.48–7.60)

**The Department's response.** Agreed. Based on the responsibilities outlined in the *Emergency Management Act*, Public Safety Canada will provide tools and guidance for sectors to determine their processes, systems, facilities, technologies, networks, assets, and services. Public Safety Canada will also provide tools and guidance for departmental sector heads to assess the infrastructure's criticality based on risks and its significance to the safety and security of Canadians, and will establish policies and programs to prepare plans for their protection.

# Report of the Auditor General of Canada to the House of Commons—Fall 2009

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**Auditor General  
of Canada**  
to the House of Commons

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**Chapter 8**  
Strengthening Aid Effectiveness—  
Canadian International Development Agency



Office of the Auditor General of Canada



# 2009



Report of the  
**Auditor General  
of Canada**  
to the House of Commons

**FALL**

**Chapter 8**  
Strengthening Aid Effectiveness—  
Canadian International Development Agency



Office of the Auditor General of Canada

The Fall 2009 Report of the Auditor General of Canada comprises Matters of Special Importance—2009, Main Points—Chapters 1 to 8, Appendices, and eight chapters. The main table of contents for the Report is found at the end of this publication.

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Chapter

# 8

Strengthening Aid Effectiveness—  
Canadian International Development  
Agency



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# Strengthening Aid Effectiveness— Canadian International Development Agency

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## Main Points

### What we examined

The Canadian International Development Agency (CIDA) administers the bulk of Canada's official development assistance program. Its mission is to lead Canada's international effort to help people living in poverty. It does not have governing legislation that defines its mandate and role.

In its 2002 Policy Statement on Strengthening Aid Effectiveness, CIDA committed to align its efforts with recipient countries' needs and priorities; harmonize its activities with those of other donors; and use new forms of aid known as program-based approaches, in which donors coordinate support to the budgets of recipient governments or local organizations for a development program delivered using local systems and procedures. Recognizing that its programming is widely dispersed, CIDA has also committed to focus its aid in fewer sectors in order to make a more meaningful contribution.

We examined how the Agency is implementing these commitments. We looked at management processes in place at its head office to guide and sustain the implementation of the commitments. In addition, we selected five countries and looked at how CIDA plans its activities there, selects projects for funding, and monitors project risks.

Audit work for this chapter was substantially completed 15 May 2009.

### Why it's important

Development assistance is a key means to help developing countries reduce poverty. It is estimated that over 1.4 billion people are living on less than US\$1.25 a day—the latest international poverty line set by the World Bank. CIDA's commitments reflect principles of aid effectiveness that international donor countries have recognized will lead to more sustainable and self-reliant development.

By its nature, international development requires a long-term effort and stable, predictable programming. CIDA has declared aid effectiveness to be its overarching priority, recognizing that this involves risks of a different nature and level and significantly changes the way it needs to work with other donors and recipient governments. Robust management processes—which include specific action plans,

performance targets, assigned accountabilities, and management review—are crucial to sustain implementation of its commitments and directions over time.

### What we found

- In the field, CIDA is working in collaboration with other donors to align its development assistance with the needs of the recipient countries we looked at. It is working to harmonize its efforts with those of other donors and to use program-based approaches where appropriate. Its selection of projects for funding is based on a rationale consistent with principles of aid effectiveness. We were told that CIDA is well regarded in the field and that its partners appreciate its efforts. However, the complex and lengthy processes required to obtain corporate approval for project funding have long been criticized within and outside the Agency.
- Corporate support in the Agency for program-based approaches has been neither uniform nor timely. In the early years after the 2002 Policy Statement was released, management provided little specific direction to field operations on how and when to use program-based approaches, and there are no quantitative targets for the extent of their use. The Agency's internal processes do not clearly stipulate the conditions under which it would or would not participate in a program-based approach or the types of risk assessment to be done before agreeing to participate. However, it had undertaken some form of risk assessment for the program-based approaches we examined or it had relied on its donor partners' analyses. It also monitored project risks.
- CIDA's main planning documents—Country Development Programming Frameworks—for the countries we examined have expired, and the process used to prepare and maintain them has been discontinued. The Agency is developing a new planning process but, by the end of our audit, the status of the new plans was unclear because none had received formal approval or been communicated broadly within CIDA. None have been made public. This means that donors, recipient governments, and program staff are unclear about the Agency's direction and long-term commitment to specific countries or regions.
- As a result of lack of clear direction and action plans, coupled with broadly defined and shifting priority sectors, CIDA is not realizing its goal of making a more meaningful Canadian contribution in a country or region by focusing its aid more narrowly. It has made limited progress in determining its strengths relative to other donors as well as the type of expertise it requires to support its priority

sectors and how best to provide it. The lack of direction and shifting priorities have undermined the long-term predictability of the Agency's efforts.

- Many of the weaknesses we identified can be traced to a lack of corporate management processes to guide and monitor the implementation of CIDA's aid effectiveness commitments. The Agency's early intentions were not matched with specific action plans and follow-through, and it has yet to develop a comprehensive strategy for implementing its commitments. In addition, frequent changes in policy direction and substantial turnover of senior personnel in recent years have posed significant challenges for CIDA's aid effectiveness agenda.

**The Agency has responded.** The Agency agrees with all of our recommendations. Its detailed responses follow the recommendations throughout the chapter.



# Introduction

## Canada's aid agency

**8.1** The Canadian International Development Agency (CIDA) is Canada's aid agency. Its mission is to lead Canada's international efforts to help people living in poverty. Poverty remains a rampant problem throughout the world. An estimated 1.4 billion people are surviving on less than US\$1.25 a day—the latest international poverty line set by the World Bank.

**8.2** Recognition of such poverty provided the backdrop to one of the largest gathering of world leaders in human history—in September 2000, the Millennium Summit of the United Nations in New York. At this summit, Canada and 188 other nations adopted the United Nations Millennium Declaration and the **Millennium Development Goals**—eight goals that serve as the yardstick for measuring improvements in the most critical areas of human development by 2015.

**8.3** Development assistance, in its many forms, is one of the means that aid donors use to help developing countries achieve the Millennium Development Goals. The Development Assistance Committee (DAC) of the Organisation for Economic Co-operation and Development (OECD) reports that official development assistance disbursements by member countries (which includes Canada) rose to over US\$120 billion in 2008, from around US\$58 billion in 2002. Canada ranks 9th in terms of total disbursements and 16th in terms of percentage of the gross national income among the 22 member countries. In 2008, Canada disbursed a total of US\$4.7 billion in official development assistance.

**8.4** Although several federal departments (such as the Department of Finance Canada and Foreign Affairs and International Trade Canada) provide official development assistance, CIDA administers the bulk of Canada's contributions. The Agency's budget had grown to about CDN\$3 billion in the 2007–08 fiscal year, from about CDN\$2 billion in the 2002–03 fiscal year.

**8.5** CIDA reports to Parliament through the Minister of International Cooperation. Its staff of approximately 1,800 (full-time equivalents) includes Canadians who work both at headquarters (the vast majority) or in Canadian missions abroad. Country desks within CIDA are responsible for specific country-to-country programming. They are headed by a country director and typically consist of staff located at headquarters and at missions abroad. Field staff are led by a

## Millennium Development Goals

1. Eradicate extreme poverty and hunger
2. Achieve universal primary education
3. Promote gender equality and empower women
4. Reduce child mortality
5. Improve maternal health
6. Combat HIV/AIDS, malaria, and other diseases
7. Ensure environmental sustainability
8. Develop a Global Partnership for Development

head of aid. Country desks are supported by locally engaged personnel and technical experts on contract, including technical advisers operating within support units in the field. These contractors number in the thousands.

**8.6** Three main branches in CIDA provide development assistance. Each branch has a separate internal mandate:

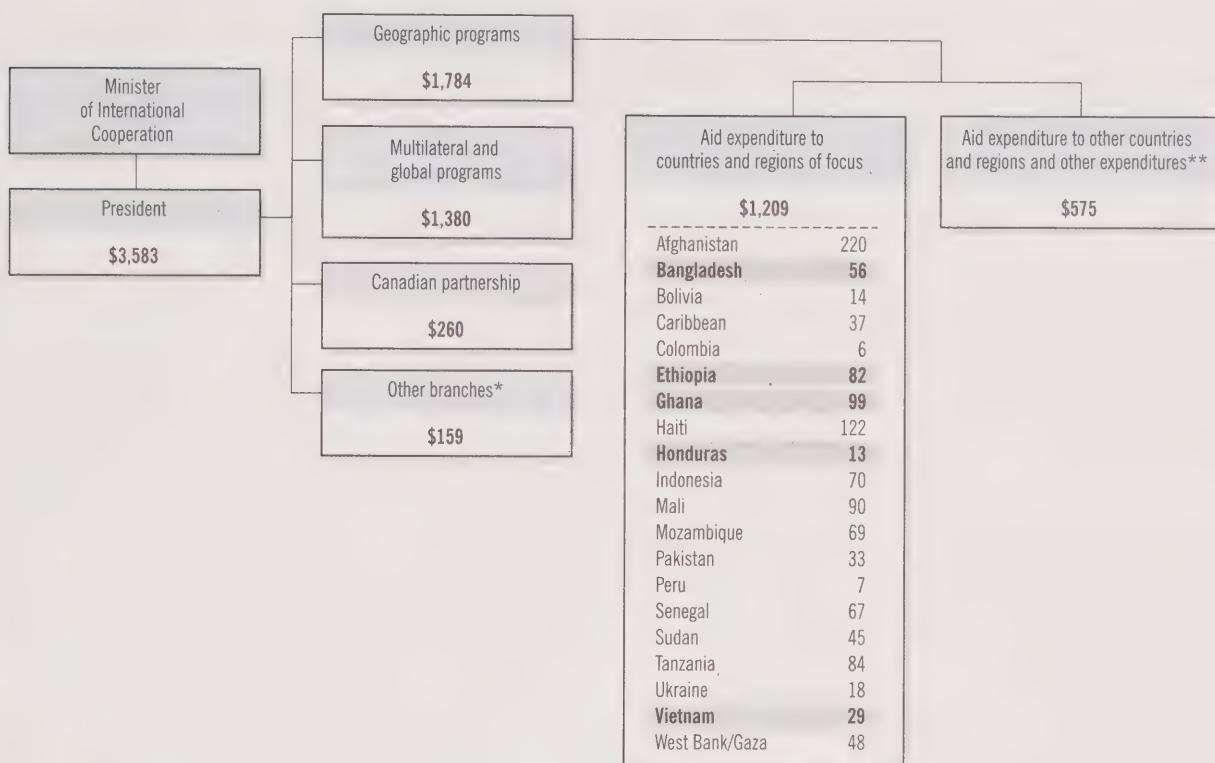
- The Multilateral and Global Programs Branch provides core contributions to multilateral development institutions and to targeted regional and global programs. It also manages humanitarian assistance.
- The Canadian Partnership Branch supports cost-sharing partnerships with civil society and private-sector organizations for development aid.
- The Geographic Programs Branch oversees all country-to-country aid relationships.

**8.7** Currently, CIDA's geographic (country-to-country) programming takes place in more than 60 countries. The Agency has recognized that it disperses its aid more widely than most other aid agencies, and, at the turn of the millennium, it committed to focusing its efforts on a limited number of the world's developing countries. On 23 February 2009, the Agency formally announced—with Cabinet approval—its intention to focus its aid on 20 countries. Exhibit 8.1 illustrates CIDA's current organizational structure, lists the 20 countries of focus, and outlines spending for the 2008–09 fiscal year.

**8.8** The Agency does not usually deliver aid itself. Instead, it funds other organizations, such as Canadian “executing agencies” (volunteer and non-government aid organizations, consulting companies, and universities), and various international and United Nations’ organizations; in some cases, it funds the governments of recipient countries directly.

**8.9** The Agency is considered to be a federal government department under the *Financial Administration Act*. The financial delegation of authorities governs project approvals. The Minister of International Cooperation has the authority to approve projects of up to \$20 million, while the Treasury Board must approve projects of more than \$20 million. CIDA's president and vice-presidents have the authority to approve projects of up to \$5 million. Country directors can approve projects of up to \$500,000.

Exhibit 8.1 The Canadian International Development Agency's organizational chart and 2008–09 fiscal year spending (\$ millions) (unaudited)



Note \*: Includes Human Resources, Chief Financial Officer, Chief Information Officer, Communications and Strategic Policy & Performance  
 Note \*\*: Other expenditures include operating expenditures and Canada Funds for Local Initiatives

Source: The Canadian International Development Agency (CIDA)

**8.10** CIDA does not have comprehensive governing legislation that defines its mandate and role. A combination of influences affects the Agency's programming, including how and how much to spend on development assistance, where to concentrate its efforts, what the goal of those efforts is, and what means it uses to achieve its goals. These influences include Government of Canada policy objectives, the priorities of the Minister of International Cooperation, and CIDA's own operational policies and strategies.

**8.11** Since 2000, five different ministers of International Cooperation and four different Agency presidents have led CIDA. The Agency has had to adjust its programming in response to frequent and significant changes in government and ministerial policy and direction. These changes have included Canada's overall development objectives, the countries and regions CIDA focuses on, and the sectors and global issues Canada and CIDA have considered priorities. Funding allocations have also changed to reflect these shifts. The significant

turnover of the Agency's senior management has posed an ongoing additional challenge to providing a stable operating environment.

**8.12** CIDA does not act alone. It is part of a larger development community, globally and at a country-specific level—a community that also influences CIDA's programming. This community includes aid agencies from other donor countries, development banks, United Nations and other multilateral institutions, civil society and non-government organizations, and the governments of recipient countries.

### The Agency and aid effectiveness

In contrast to the traditional approach to aid, which is characterized by individual stand-alone projects, a **program-based approach** is based on coordinated support from donors for a development program of the recipient government or of a local organization. This approach is intended to result in more sustainable and self-reliant development and includes four main elements:

- leadership by the host country or organization;
- a single program and budget framework;
- donor coordination and harmonization of procedures; and
- efforts to increase the use of local procedures over time, with regard to program design and implementation, financial management, and monitoring and evaluation.

**8.13** Theories about what makes aid effective have evolved over time. A turning point was the 1996 publication by the OECD Development Assistance Committee, *Shaping the 21st Century: The Contribution of Development Cooperation*, which outlined a series of key principles for effective development, such as basing aid on the recipient country's priorities and improving coordination among individual donors. International experience has also given rise to new ways of designing and funding aid, now commonly referred to as **program-based approaches**.

**8.14** Against this backdrop, CIDA released its 2002 Policy Statement on Strengthening Aid Effectiveness, which identified a broad framework for geographic and sectoral allocation of the Agency's resources, changes in the use of tied aid, and steps to be taken to strengthen CIDA as an institution. Of particular importance for this audit, the policy commits the Agency to harmonize its aid with other donors, to align its efforts with recipient countries' development strategies, and to use program-based approaches. Elsewhere, in addition to these internationally recognized principles of aid effectiveness, CIDA has committed to focus its aid on particular sectors, recognizing that while the needs of developing countries are unlimited, its resources are not. Examples of sectors include education, health, agriculture and democratic governance. CIDA has stated and re-stated its commitments and other aspects of its aid effectiveness agenda in the successive reports on plans and priorities it has submitted to Parliament since 2001.

**8.15** CIDA continues to be influenced by international developments. Through a series of international high-level meetings held in Rome, Italy (2003), Marrakech, Morocco (2004), and Paris, France (2005); Canada, recipient and donor countries, and international institutions have further elaborated and agreed on a set of principles, specific actions, and targets to guide the management of aid, articulated in the 2005 Paris Declaration on Aid Effectiveness.

**8.16** While it is commonly acknowledged that the Paris Declaration is gradually taking hold in recipient countries; most recently, at a high-level meeting in Accra, Ghana (2008), Canada and other donors committed to a number of concrete steps to accelerate progress with respect to aid effectiveness. In recognition of the long-term nature of development assistance, they also committed to providing more predictable and transparent aid that would flow over multiple years.

### Focus of the audit

**8.17** This audit examined how CIDA has put into practice its aid effectiveness commitments concerning alignment, harmonization, program-based approaches, and focusing of its resources. We looked at three separate but related functions in the organization: planning and support of country programs, project selection and monitoring, and corporate management processes and oversight.

**8.18** At the country level, we examined how CIDA develops its long-range country plans, including whether they reflect its aid effectiveness commitments. We concentrated on the Agency's Geographic Programs Branch and chose for detailed examination five countries on its list of countries of concentration: Bangladesh, Ethiopia, Ghana, Honduras, and Vietnam. We examined five projects from each country to determine whether the selection of projects was based on a sound rationale and whether CIDA was assessing and monitoring risks as it implemented them. At the corporate level, we examined whether the Agency has put in place management processes to direct and sustain implementation of its commitments over time.

**8.19** More details on the audit objectives, scope, approach, and criteria are in **About the Audit** at the end of this chapter.

## Observations and Recommendations

### Planning and support of country programs

**8.20** Conditions in recipient countries have a significant impact on the Canadian International Development Agency's (CIDA's) programming. The Agency must take into account the unique social conditions of the people; the economic, legal, and political systems of each government; and the presence and activity of other donors and institutions when planning its work. Careful planning that reflects such conditions increases the likelihood that aid will be successful and its benefits long-lasting. Exhibit 8.2 includes selected statistics on each of the countries we selected for review as well as some indicators of CIDA's and Canada's development aid involvement there.

## Exhibit 8.2 The Canadian International Development Agency's (CIDA's) involvement in five countries selected for review



**8.21** Until recently, the Agency used country development programming frameworks to guide the selection of individual projects (which, when combined, make up the country program) and the spending of millions of dollars of aid over a five-year time frame. In December 2003, CIDA updated its guide for these frameworks, requiring them to reflect the major elements of its 2002 Policy Statement on Strengthening Aid Effectiveness and to be based on an analysis of the plans and priorities of recipient governments, the activities of other donors, and on the Agency's strengths relative to other donors. The frameworks were meant to be updated if, among other things, there were significant political or economic changes in a recipient country.

**8.22** We examined the way CIDA plans and supports its work (including the use of formal frameworks), specifically how it aligns its aid with the needs of recipient countries, how it coordinates and harmonizes its work with other donors, how it directs the use of program-based approaches, and how it pursues greater focus of its efforts. We examined the frameworks for Bangladesh, Ethiopia, and Vietnam (which covered programming years subsequent to the release of the 2002 Policy Statement and were prepared according to the 2003 updated guide) as well as for Ghana and Honduras (which were already in effect at the time the 2002 Policy Statement was released).

#### **Geographic aid is aligning with recipient country needs**

**8.23** The principle of alignment is largely based on the premise that aid works better and its benefits last longer if donors provide it where developing countries need and want it. Alignment means that donors should be responsive, not prescriptive, in meeting a country's needs.

**8.24** Developing countries usually express their needs in a poverty reduction strategy paper. These strategy papers typically

- define the country's development needs;
- describe its macroeconomic, structural, and social policies and programs; and
- identify the external financing needs and possible sources a government will pursue to promote economic growth and reduce poverty.

We assessed how CIDA's country development programming frameworks incorporated the recipient countries' needs and priorities as expressed in their strategy papers.

**8.25** We found that CIDA's programming frameworks considered and reflected recipient countries' needs at the time they were written; and they demonstrated high-level alignment, bearing in mind that the strategy papers tend to identify a vast range of needs. That said, conditions and priorities in recipient countries change over time, posing challenges for CIDA in its attempt to align with a country's priorities. While Bangladesh, Ethiopia, Ghana, and Vietnam have poverty strategy papers in effect, Honduras' paper effectively expired in 2007 and the government has not yet replaced it.

**8.26** Therefore, pursuing alignment on an ongoing basis is important, and maintaining current and detailed knowledge of the country context is critical. CIDA personnel and locally engaged experts we interviewed had knowledge of each country's context and priorities. They had established formal ways of exchanging information with recipient governments (often through joint government-donor committees), as well as informal networks to keep their knowledge current.

### Efforts are being made to harmonize with other donors

**8.27** Many donors are present in developing countries, leading to potential fragmentation of their efforts and placing a heavy administrative burden on the government, which must cope with the rules and expectations of multiple agencies. By sharing information and working together, harmonization can lead to simplified procedures and joint arrangements for designing, managing, and delivering aid, including the use of program-based approaches. Not only can this reduce the administrative burden for recipient countries, it can also increase the benefits to those countries, through donors' combined and complementary efforts.

**8.28** In order to intensify its efforts toward donor coordination, CIDA released an action plan to promote harmonization in 2004. The document established a range of initiatives designed to respond to challenges and needs that existed at the time. It also included a number of indicators for measuring its performance and assigned responsibility to several of its branches for taking action. However, over time, the Agency faltered in implementing the plan. We could not locate the monitoring and progress reports that it called for, so the Agency could not show its performance against planned targets and indicators. The executive committee has not followed through on an internal proposal to renew the action plan.

**8.29** The country development programming frameworks for the countries we examined mentioned the goal of improved harmonization.

They included brief descriptions of other donors' activities (such as levels of funding and sectors of programming) but lacked in-depth analysis of individual donors' strengths. Without that analysis, it is difficult for CIDA to identify how it could make the best contribution.

**8.30** The means through which CIDA achieves harmonization in the field are important. Increasingly, donors are using coordination groups as a way to harmonize their efforts, providing fora to discuss the ways each can contribute to a country's development. These groups also allow donors to engage governments with a collective voice to discuss programming. The structure, complexity, and membership of these groups vary from country to country. Typically, a number of sector-specific or technical sub-committees support an overall coordinating committee.

**8.31** These coordination groups are at different stages of development. For example, the coordination group in Honduras is struggling to maintain its effectiveness after major donors have withdrawn. In Vietnam, relationships have evolved to the point where some joint programs have been set up. In Ghana, donors, governments, and other stakeholders have signed a comprehensive formal joint cooperation strategy; whereas, in Bangladesh, they have committed to develop one. In Ethiopia, donors have started to map their respective projects and programs, working toward a goal of division of labour. A division of labour, whereby donors divide projects and responsibilities based on their areas of interest and relative strengths, is considered a long-term goal of harmonization and is increasingly being discussed in the donor coordination groups.

**8.32** Ultimately, the nature and effectiveness of such groups depends on the collective will and effort of all the donors. CIDA field staff put considerable effort into supporting these groups. Canadian-based staff and locally retained experts represent the Agency on a number of committees and working groups and, at times, take a leadership role. People we met with in development communities in the countries we visited described CIDA as a valued partner and active participant.

#### Targets to guide the Agency's use of program-based approaches have not been set

**8.33** The introduction of program-based approaches represented a significant departure from traditional ways of doing business. In the past, traditional aid projects were often carried out in isolation rather than designed to be part of a bigger picture. For example, building a school was the end product rather than part of a comprehensive education system. Moreover, traditional projects tend to rely on the

donor's systems and procedures for delivery—rather than those of the recipient country—effectively impeding the development of national capacity. Finally, the cumulative effect of many donors implementing separate projects places a large administrative burden on recipient countries, who must cope with a myriad of rules and procedures imposed by the donors.

**8.34** Program-based approaches entail new forms of funding and can involve general budget support (donors transfer money to a government treasury for it to use according to its development and poverty reduction objectives) and sector budget support (money is transferred but is targeted to selected ministries for specific programs). In some cases, donors first contribute funds into a pool or trust that is managed by an organization, such as a development bank, which subsequently transfers the money to a government or organization. We examined the extent to which CIDA supported the use of program-based approaches and the extent to which this was reflected in the Agency's planning processes and documents.

**8.35** The country development programming frameworks for Bangladesh, Ethiopia, and Vietnam include general discussions about program-based approaches, highlighting how their use may address or be affected by certain risks in the country and indicating that the Agency will seek opportunities to use them. None of the frameworks contains specific targets concerning the desired level of use or mix of traditional and program-based approaches. In fact, in the early years after the release of its 2002 Policy Statement on Strengthening Aid Effectiveness, CIDA management provided little specific direction and no quantitative targets to country desks on how and when to use program-based approaches. Without these targets, the Agency cannot assess the extent to which it is meeting its own commitment and expectations.

**8.36** Nevertheless, program-based approaches are currently being used in each of the countries we examined, though the level of use varies significantly from country to country. In Ethiopia and Ghana, for example, multi-donor program-based approaches account for the large majority of CIDA's funding; while in Honduras, CIDA funded only one such project. The extent of use of such approaches in Bangladesh and Vietnam was in between these two extremes. In part this is because of differences in the nature and capacity of recipient governments, the role other donors play, and the extent of support for their use within CIDA. Exhibit 8.3 provides an overview of the mix between traditional and program-based projects in each of the five countries we selected, as well as an example of a project from each country.

Exhibit 8.3 The Canadian International Development Agency uses traditional and program-based approaches to aid in selected countries

Bangladesh	Ethiopia	Ghana	Honduras	Vietnam
The majority of CIDA's spending is through program-based approaches.	The majority of CIDA's spending is through program-based approaches.	The majority of CIDA's spending is through program-based approaches.	The majority of CIDA's spending is through traditional projects.	The majority of CIDA's spending is through traditional projects.
<b>Project Profile</b>  CIDA's "BRAC Education Program" project provides CDN\$24.8 million (over four years beginning in 2005) to a phase of BRAC's (Building Resources Across Communities)—a large non-government organization—education program valued in excess of CDN\$200 million. This project represents CIDA's participation in a multi-donor program-based approach. CIDA's contribution is first made to a trust fund and is subsequently disbursed to the government program. The PSNP gives food or cash to Ethiopians in return for labour building and developing community infrastructure projects, such as feeder roads and water conservation and soil preservation structures, and is expected to improve the food security of five million people per year.	<b>Project Profile</b>  CIDA's "Asset Protection for Food Security" project provided CDN\$20 million in 2007 to the Government of Ethiopia's Productive Safety Net Program (PSNP), to which CIDA has contributed a total of CDN\$133 million since 2005. This project represents CIDA's participation in a US\$1-billion multi-donor program-based approach. CIDA's contribution is first made to a trust fund and is subsequently disbursed to the government program. The PSNP gives food or cash to Ethiopians in return for labour building and developing community infrastructure projects, such as feeder roads and water conservation and soil preservation structures, and is expected to improve the food security of five million people per year.	<b>Project Profile</b>  CIDA's "Ghana Environment Management" project provides CDN\$7.25 million to the selected ministries in the Government of Ghana (over five years beginning in 2007) and is characterised as a program-based approach. The goal of this project is to strengthen Ghanaian institutions and rural communities in three regions of northern Ghana to enable them to reverse land degradation and desertification trends and to adopt sustainable water and land management systems that improve food security and reduce poverty. CIDA has been supporting water projects in northern Ghana for many years.	<b>Project Profile</b>  CIDA's "PASOS II" project is a traditional project run by a Canadian executing agency, CARE Canada. This CDN\$5 million project (over five years beginning in 2006) is the third phase of a project that started in 1996. It is intended to provide safe water and sanitation services and to improve what are known as micro-watersheds in Northern Honduras. The project also includes strengthening the capacity of local communities to manage their water. By the end of the current phase in 2011, CIDA expects that up to 20,000 people will benefit from improved access to water supply and sanitation services.	<b>Project Profile</b>  CIDA's "Food and Agriculture Products Quality Development and Control" project is a traditional project with the University of Montreal as the key executing agency. This CDN\$18-million project (over five years beginning in 2007) is intended to improve the quality and safety of food and agricultural products. Specific activities are aimed at improving food production and processing, quality control, and certification practices. These improvements would make the agricultural and food sector of the economy stronger and thus reduce poverty through increased incomes.

Source: The Canadian International Development Agency (CIDA)

**8.37** The program-based approaches CIDA is using vary significantly in design and funding arrangements. The Agency is using various forms of sector budget support in all of the countries we examined; it is providing general budget support only in Ghana and Vietnam. CIDA staff in the countries we examined are looking for opportunities to maintain or increase their use of the program-based approaches, largely through the donor coordination mechanisms that exist in each country.

**8.38** CIDA has now been using program-based approaches for almost a decade, and has gained considerable experience in designing and using them. We believe it is timely for the Agency to evaluate this experience to determine whether, in reality, such approaches are achieving their intended benefits and results and whether such approaches are right for CIDA.

**8.39 Recommendation.** To support the use of program-based approaches, the Canadian International Development Agency should set clear performance targets regarding how much of its aid should be delivered through these approaches.

**The Agency's response.** Agreed. The Agency finalized an Aid Effectiveness Action Plan in July 2009, which identifies measurable actions with accompanying targets for aid effectiveness commitments, including program-based approaches. As committed in the Action Plan, the Agency will strive to meet its program-based approach target of 50 percent when appropriate conditions are met, as defined in the policy on program-based approaches.

**8.40 Recommendation.** The Canadian International Development Agency should undertake a comprehensive evaluation of its use of program-based approaches with a view to determining whether they are achieving the Agency's goals.

**The Agency's response.** Agreed. As mandated by the Treasury Board, the Agency will provide a review of program-based approaches by 31 March 2010 that assesses the effectiveness of these approaches. In preparation for this review, it is completing evaluations of country programs with a significant program-based approach component.

#### **A rigorous country planning process is missing**

**8.41** In our view, the country development programming frameworks we examined served as useful planning documents at the time they were written. Analyses of recipient countries' needs and extensive consultation with external stakeholders and within CIDA underpinned programming direction. The frameworks influenced the

selection of Agency-funded projects, including the use of program-based approaches. These public documents communicated CIDA's plans and were the basis of alignment and harmonization discussions with governments and other donors.

**8.42** However, the framework process was never sustained as envisioned. For example, the frameworks for Ghana and Honduras (which were developed before the 2002 Policy Statement on Strengthening Aid Effectiveness) expired in 2004 and 2007, respectively. In both cases, CIDA staff assigned to these countries undertook renewed analyses and consultation, wrote new draft plans, and presented those plans internally for approval. They were never approved. Ethiopia's framework was not updated to take into account significant changes that occurred in that country in 2005, changes that substantially altered CIDA's programming there. The result was that stakeholders in Ghana, Honduras, and Ethiopia lacked formal plans that officially communicated the Agency's direction.

**8.43** By the end of our audit, all of the frameworks for the five countries we examined had expired and none had been replaced with a comparable document. Some senior government officials and donor representatives that we met in the countries we visited remarked on the absence of a long-term CIDA plan for those countries. In effect, use of the country development programming frameworks was discontinued only a few years after they were put in place.

**8.44** In addition, although prepared by the Geographic Programs Branch, country development programming frameworks were intended to be corporate documents, reflecting the combined programming of CIDA's Geographic Programs, Multilateral and Global Programs, and Canadian Partnership branches. In the countries we examined, CIDA is providing support through all three branches. In our view, harmonization with external parties demands internal coordination and cohesion. The frameworks we examined include a summary description of the activities of these other branches, but do not demonstrate a cohesive and coordinated approach to respective branch programming. Furthermore, the Agency has not developed the tools that could provide its managers—or its stakeholders—with an overview of all the Agency-funded projects and programs under way in any given country at any given time. Instead, CIDA country desks are left to piece together an integrated view of the Agency's overall aid from various internal sources.

**8.45** Mid-2008 saw the emergence of a new planning process and a new type of country planning document, now referred to as Country

Strategies. During our audit, the Agency was still developing this new process and we observed confusion and frustration about it among staff. The purpose, format, required content, and even the title of these planning documents have been changed often. Staff were given little time to undertake meaningful consultation or robust sectoral analysis to support the strategic orientation of the new plans. By the end of this audit, the status of the new plans was unclear because none had received formal approval nor had been communicated broadly within CIDA. None had been made public. In the interim, project proposals submitted for corporate approval took into account factors such as previous strategic direction and Agency priorities, as well as conditions, needs, and emerging opportunities in the recipient country.

**8.46** The absence of a well-defined and transparent planning process and formally approved and public plans impedes communication with donors and recipient governments, leaving them unclear about the Agency's direction and long-term commitment in individual countries or regions. This makes it difficult for the Agency to harmonize its efforts with other donors or to provide any level of predictability to its government partners. Furthermore, it does not provide staff with clear direction to propose projects strategically.

**8.47 Recommendation.** To ensure transparent and predictable long-term planning, the Canadian International Development Agency should

- finalize the new planning process for all countries included within its Geographic Programs Branch;
- ensure that future planning is based on sound analysis, taking into account recipient country needs and capacities and CIDA's relative strengths, and reflects an integrated whole-of-Agency perspective;
- provide ongoing oversight of the process's application and renew country plans, under defined and monitored conditions; and
- communicate approved country plans to development partners, including recipient governments, as appropriate.

**The Agency's response.** Agreed. A new planning process for geographic programs has been finalized. Country Strategies for each of the 20 countries of focus, which provide the strategic direction for programs, have received ministerial direction. Summaries of these strategies will be posted on the Agency's website by the end of 2009.

These documents contain an analysis of the recipient country needs as identified in their Poverty Reduction Strategy and National Development Plan. Canada's value-added in addressing these needs is based on such factors as the Agency's past experience in the country and its relative programming strengths compared to other donors and partners. The whole-of-Agency approach is also reflected, where appropriate.

The direction identified in country strategies is implemented by the responsible program through five-year programming and planning frameworks, or Country Development Programming Frameworks (CDPFs), which will be completed by March 2010. They will be based on revised CDPF guidelines that will be put in place by the end of October 2009.

Country strategies will be reviewed annually to assess any significant changes to the country's development context and program performance. If required, adjustments will be made and reflected in changes to CDPFs, and the country strategies posted on the Agency's website.

#### **Shifting and broad priorities have prevented a meaningful sector focus**

**8.48** The Agency has recognized that its programming is widely dispersed. Over the years, it has tried to bring more focus to its programming by clearly defining sectors of priority. Canada's 1995 foreign policy statement set out six priority sectors for CIDA's development program. The 2002 Policy Statement on Strengthening Aid Effectiveness noted that these priorities had served more as a broad menu of thematic options than as a focused agenda. This policy statement attempted to target CIDA's investments more strategically. Also, in its reports on plans and priorities to Parliament, the Agency has set out to concentrate its resources on a smaller number of sectors to make a more meaningful contribution in the countries where it operates, given the size of its aid budget. We examined the extent to which the Agency has achieved this corporately and in its country-specific programs. Over time, CIDA has used a variety of terms to describe these priorities, including words like sectors, themes, and focus areas. For the purposes of this chapter, we are using the term "priority sectors."

**8.49** As Exhibit 8.4 illustrates, CIDA's sector-based policies and priority sectors shifted many times between 2001 and 2009. Often, the Agency announced new policies and priorities but did not rescind old ones. In some cases, these shifts represented a completely new direction for the Agency (such as the shift to agriculture as a funding

priority in 2003). In other cases, these shifts were more of an elaboration or restatement of previously announced priorities. Since it can take years to design and carry out projects properly and even longer for changes in direction to take hold, over time these frequent changes have hampered the ability of CIDA's country desks to plan for the long term. Soon after the organization starts to adjust the nature of its programming, a change in direction or a new initiative begins, and staff must begin adjusting again.

**Exhibit 8.4** The Canadian International Development Agency's (CIDA's) priority sectors have shifted over time

Year	Source document	Priority sectors
1995	Canada in the World—Government Statement	<ul style="list-style-type: none"> <li>Basic human needs: primary health care, basic education, family planning, nutrition, water and sanitation, and shelter</li> <li>Women in development</li> <li>Infrastructure services</li> <li>Human rights, democracy, good governance</li> <li>Private sector development</li> <li>Environment</li> </ul>
2001	CIDA's Social Development Priorities: A Framework for Action	<ul style="list-style-type: none"> <li>Health and nutrition</li> <li>Basic education</li> <li>HIV/AIDS</li> <li>Child protection</li> </ul>
2002	Canada Making a Difference in the World: CIDA's Policy Statement on Strengthening Aid Effectiveness	<ul style="list-style-type: none"> <li>Four social development priorities: health and nutrition, HIV/AIDS, basic education and child protection, with cross-cutting theme of gender equality</li> <li>Agriculture and rural development</li> <li>Private sector development</li> </ul>
2003	CIDA's Policy on Promoting Sustainable Rural Development Through Agriculture	<ul style="list-style-type: none"> <li>National capacity</li> <li>Knowledge for development</li> <li>Food security, agricultural productivity, and income</li> <li>Agricultural sustainability and natural resource management</li> <li>Well-functioning markets</li> </ul>
2005	Canada's International Policy Statement—A Role of Pride and Influence in the World: Development	<ul style="list-style-type: none"> <li>Governance</li> <li>Health (focus on HIV/AIDS)</li> <li>Basic education</li> <li>Private sector development</li> <li>Environmental sustainability</li> <li>Cross-cutting theme: gender equity</li> </ul>
2009	CIDA news release: Canada Introduces a New Effective Approach to Canadian Aid to its International Assistance	<ul style="list-style-type: none"> <li>Food security</li> <li>Sustainable economic growth</li> <li>Children and youth</li> </ul>

**8.50** CIDA's priority sectors have always been broadly defined, which further complicated its attempts to focus. Identified priorities such as health, governance, or private sector development can encompass a wide range of and overlapping programming areas (sometimes called sub-sectors or activities). For example, the priority sector of private sector development encompasses more than 100 different potential programming areas. It is difficult to see how any greater focus can result from sectors as broadly defined as these.

**8.51** In the years immediately following the release of its 2002 Policy Statement on Strengthening Aid Effectiveness, the Agency did not develop a specific action plan to help it focus its aid in specific sectors. Nor did it set precise and measurable targets for country desks to achieve. In 2005, the Agency began an initiative to assess its intervention in a number of sectors, beginning with a stock-taking exercise. By the end of March 2006, the Agency had produced draft strategic direction papers intended to provide clear and consistent policy guidance for six priority sectors. The initiative as a whole was never completed. We note that yet another stock-taking exercise was taking place at the time of this audit.

**8.52** Our analysis of data the Agency provided us did not reveal any meaningful trends that would indicate that the Agency as a whole has been achieving a narrower focus since 2002. In addition, our analysis of individual portfolios in the countries we selected during this audit found that in four out of the five countries there was no significant narrowing of focus since 2002 in priority sectors. The portfolios of operational projects under way continue to cover a broad range of topics. The Agency has not provided us with its own analysis that would demonstrate otherwise.

**8.53** The lack of clear direction and action plans, coupled with broadly defined and shifting priorities, has led the Agency to a situation where, in our view, it is not realizing the benefit of its intended goal to focus its aid more narrowly. That goal is to create a more meaningful Canadian contribution to a country or region. Instead, the lack of direction has confused CIDA staff, recipient governments, and other donors, effectively undermining the Agency's long-term predictability. Changes in priorities have little impact on projects that are already under way and have often meant that project wording, but not project design, is changed to fit the priorities of the day.

**8.54 Recommendation.** To achieve greater sectoral focus, the Canadian International Development Agency should

- clarify, for each of its priority sectors, the specific programming areas that it will support in the future as well as those that it will not;
- set measurable expectations and targets for country programs to achieve; and
- monitor and report on progress against these expectations and targets.

**The Agency's response.** Agreed. To achieve greater sectoral focus, the Minister of International Cooperation announced new thematic priorities in May 2009. These thematic priorities are: increasing food security, stimulating sustainable economic growth, and securing the future of children and youth.

The 2009 country strategies reflect greater programming focus on, and within, these thematic priorities. Following consultations in Canada and in focus countries, the Agency will complete Agency-wide strategies for each of these thematic priorities by early 2010.

Measurable expectations and performance benchmarks will be set in comprehensive development programming frameworks as appropriate. The Agency will monitor and report on these expected results. Annual program performance reports will examine the extent to which key expected results have been achieved. These results will contribute to the formulation of corporate plans and reports, such as the Report on Plans and Priorities and the Departmental Performance Report.

#### **Lack of focus is impeding the identification and growth of the Agency's relative strengths**

**8.55** In our view, this situation has also affected the Agency's ability to determine and build on its strengths relative to other donors and to identify and foster the sectoral expertise it needs for decision making and project design. Country desk staff typically operate as project managers and development generalists rather than sector specialists. Those who are specialists in a particular sector are not necessarily assigned to country programs where their expertise is directly relevant to those countries' priorities. When necessary, CIDA relies on other in-house experts or international, Canadian, and local experts. While the 2002 Policy Statement on Strengthening Aid Effectiveness set out to help renew the Agency's cadre of scientific and technical personnel, CIDA has made limited progress in deciding what type of expertise it requires to support its priority sectors, or how to provide it. This,

in turn, has implications for the Agency's ability to define its areas of relative strengths and thereby support division of labour among donors.

**8.56 Recommendation.** To support achieving sector focus and building its relative strengths, the Canadian International Development Agency should

- define the skills and expertise it requires to support its priority sectors and specific programming areas; and
- determine and implement the means it will use to provide those skills and expertise.

**The Agency's response.** Agreed. The Agency is in the process of defining the necessary skills and expertise required to support programming and delivery of initiatives within these thematic priorities. The Agency will ensure that a robust cadre of specialists is in place through recruitment, training and ongoing professional development. This work will be completed by March 2010.

## Project selection and monitoring

**8.57** The benefits of Canada's aid to developing countries depend on the projects that the Canadian International Development Agency (CIDA) funds. Agency-funded projects cover a wide range of programming areas. Although they can be one-time, short-term projects, they usually take place over several years. At any point in time, the Agency's portfolio of projects in a country includes some that are just starting, some that are midway through implementation, and others that are nearing their completion. In order to maintain a targeted level of investment in a country, CIDA is always planning new projects.

**8.58** We looked at whether the Agency chose projects on the basis of a sound rationale; that is, whether its choices reflected the principles of alignment and harmonization, were consistent with the country development programming framework, and were based on CIDA's strengths relative to other donors. We chose 5 projects from each of the 5 countries, for a total of 25 projects (about half of which were categorized by CIDA as using program-based approaches).

### Projects fit country needs

**8.59** The Agency's rationale for choosing the projects we included in our selection varies widely. All of the projects contribute to needs the country has expressed; however, as noted earlier in this chapter, the needs are vast. In most cases, the projects align with the priorities expressed in CIDA's country development programming frameworks at the time that it decided to fund them. Several projects are extensions

of previous ones that CIDA considered successful, often using trusted partners. The Agency chose other projects in response to explicit country requests. Still others resulted from invitations from other donors to join harmonized efforts. And while projects that are carried out through program-based approaches are—by their very nature—harmonized with other donors, we found that CIDA is also making efforts to harmonize with one or more donors and to promote some degree of local ownership for traditional projects as well.

**8.60** That said, the project documentation we reviewed does not generally show that CIDA chooses its projects on the basis of an assessment of its—or Canada’s—relative strengths in a particular field. It is not always clear what particular advantage (other than money) the Agency brings to the table. In our view, until sector focus is more clearly defined, choosing projects on the basis of CIDA’s relative strengths will be a challenge. Moreover, since the Agency’s country development programming frameworks have expired, and with shifting priorities and no up-to-date country plans, we are concerned about what CIDA’s basis will be for selecting future projects.

#### Risks are assessed but the Agency needs to standardize its approach

**8.61** For both traditional projects and program-based approaches, CIDA’s decision-making and approval processes require that it identify project risks up front and put actions in place to monitor and, if necessary, mitigate those risks. We examined whether CIDA identified and assessed project risks before and monitored them after the project was under way. We emphasized projects that are carried out using program-based approaches because of the risks involved in relying on national systems and in providing budget support to recipient governments. In such cases, special analyses are warranted, some of which are described in the guide on program-based approaches the Agency produced in 2005 (and updated in 2007) and in its 2007 policy on the assessment of fiduciary risks.

**8.62** For the projects we reviewed (most of which were initiated before 2007), the participating donors worked together to identify the types of assessment they needed. They carried out various types of analysis by examining public financial management and procurement systems, the level of corruption in a country, and the country’s capacity to carry out the program. The specific analyses undertaken and the analytic tools used varied from project to project. In some cases, the Agency hired its own contractors to assess the projects, but, for the most part, it relied on third-party assessments that other organizations (such as development banks) conducted. CIDA used the information from

these assessments to support its project decisions. Within the Agency, it also established an informal team of functional experts whose role was to assist staff responsible for particular countries in designing and implementing this approach to programming in Africa. At the time, most of the program-based approaches were taking place there.

**8.63** Notwithstanding the various assessments of risk that CIDA and others undertook, the Agency's internal processes did not clearly stipulate the types of assessments that needed to be performed systematically before it agreed to become involved in a given program-based approach, nor did they clearly stipulate the criteria or conditions under which it would or would not participate in a program-based approach. At the outset of our audit, we were told that a new policy for program-based approaches—which would address these gaps—had been under development for several years. By the end of our audit, it had still not been approved. In our view, the Agency now needs to clarify its decision criteria and expectations for assessing risks and country capacities.

**8.64 Recommendation.** To support the use of program-based approaches, the Canadian International Development Agency should

- define the specific conditions under which it will or will not participate in such approaches;
- clarify the types of assessments of national systems and capacities, as well as of project-related risks, it requires to have undertaken, alone or in collaboration with other donors, prior to agreeing to use a program-based approach; and
- institute processes to ensure the systematic and uniform application of such assessments.

**The Agency's response.** Agreed. The Agency finalized a Policy on Program-Based Approaches (PBAs) in July 2009. The policy articulates the circumstances under which it is appropriate to use PBAs. It is supported by the Agency's Policy on Fiduciary Risk Assessment (Part 1), and Operational Guide on PBAs. These documents provide guidance to assess the capacity of national systems and identify assessment tools, such as the Public Expenditures and Financial Accountability diagnostic assessment. These tools enable the Agency to better identify and manage project-related risks.

The Agency recently further clarified the approach and tools to assess and mitigate project-related risks in PBAs, by introducing updates in the Business Process Roadmap and Risk Management Strategy Guide

for Treasury Board submissions. The Agency will also institute a process to ensure the systematic and uniform application of the assessment tools by the end of 2009.

### **Project risks are monitored**

**8.65** In the planning documents for the projects we selected, CIDA had identified potential risks to the project as well as the means it would use to monitor them (and the implementation of the project overall) and measures it would take to mitigate them should they be realized. We found that the Agency carried out activities to monitor identified risks. Its monitoring can take various forms:

- periodic progress reports,
- field missions,
- external evaluations,
- participation in various specialized committees, and
- informal communication with executing agencies.

Executing agencies are generally required to complete periodic reviews at project milestones. CIDA may also conduct audits on projects to assess their compliance with the authorizing terms and conditions.

**8.66** Monitoring projects delivered through program-based approaches is particularly important, given the risks involved in relying on host country systems. In these cases, CIDA monitors jointly with other donors and the host government. In addition to reports from the executing agencies, donors rely on reports from the relevant government organization. We noted situations where CIDA contributed to designing ways to monitor the projects that were delivered through program-based approaches, and participated in harmonized monitoring efforts.

**8.67** At the end of each fiscal year, CIDA project officers must complete an annual project performance report for each project. These reports provide information about amounts disbursed, the expected and actual results, risk management, and lessons learned. In many cases however, the reports simply reproduce the list of risks and mitigating measures identified in the planning documents. In our view, reporting could be improved by more systematically including information about the current status of each potential risk and associated mitigating measures identified at the outset of the project.

### Burdensome administrative processes hamper effective decision making

**8.68** Agency-funded projects are subject to a complex administrative and decision-making process. For traditional projects that are carried out through an executing agency, the process usually starts with a proposal or concept paper. This is followed by a project approval document and a logic framework analysis that describe the development context, the project and expected results, an estimated project budget, and anticipated risks and mitigating strategies. Both CIDA and the executing agency must then sign a contribution agreement or grant arrangement. CIDA and the recipient government also sign a memorandum of understanding. Once this document is signed, one of the partners or the group of those collaborating draws up a project implementation plan, which provides greater detail about how the project will be implemented. Then disbursements to the project can begin.

**8.69** The Agency's decision-making processes have been widely criticized, and the Agency has acknowledged problems. The 2002 Policy Statement on Strengthening Aid Effectiveness recognized that "over time, CIDA's business processes have become unnecessarily complex and an inordinate amount of staff time has been taken up with managing the processes rather than making optimum use of development knowledge." The Agency believed it would solve this problem by consolidating its business processes and applying new knowledge toward the delivery of development aid. However, this long-standing issue remains unresolved.

**8.70** In 2007, the Agency undertook an internal study to improve the efficiency of its business processes. The study confirmed that the administrative burden remains serious and frustrating. It found that, on average, a project needed 28 different documents to take it from conception to the completion of final project implementation plan, and staff at times created their own tools to navigate through the process. They spent considerable effort on a process that took, on average, 43 months to get project approval. During this time, staff changes would occur and the same project officers would not see the majority of the projects through the process. Managers and sector specialists would also have moved, policy shifts would have occurred, and plans could have changed. The Agency advised us that, in response to the study, it has developed a new pilot project approval process, which it is currently evaluating. We strongly encourage the Agency to complete this evaluation on a timely basis and to implement appropriate actions to streamline its business processes.

**8.71** According to responses to the 2008 Public Service Employee Survey, 88 percent of the staff in the Agency's Geographic Programs Branch reported that the quality of their work often or almost always suffers because of “too many approval stages.” The survey indicated that 62 percent of staff reported “unreasonable deadlines” had the same effect. These figures are more than double the average overall for the public service, which were 41 percent and 27 percent, respectively.

**8.72** The large majority of CIDA staff we interviewed and various members of the external development community also told us that administrative processes continue to burden the Agency. Many also commented on the lack of authority delegated to staff in the field. Levels of delegated authority have essentially remained unchanged for decades. They stated that CIDA staff in the field cannot commit to projects or actions before consulting with headquarters, which causes delays. Indeed, from a project approval standpoint, we note that all the planned projects included in the 2008 country strategies for the countries we selected required a higher level of authority than those currently delegated to the country directors. In fact, most of the projects required the Minister of International Cooperation or the Treasury Board to approve them. We have not assessed the extent to which these requirements contribute to lengthy decision making, but we appreciate that they need to be taken into account when planning large projects. Lengthy decision making can affect harmonization efforts in the field.

## Corporate management processes and oversight

**8.73** The Canadian International Development Agency (CIDA) has been operating in an ever-shifting environment for many years, with changes to government policy objectives, emphasis on geographic orientation, priority sectors, and budget allocations. According to responses to the 2008 Public Service Employee Survey, staff in the Agency's Geographic Programs Branch reported that “constantly changing priorities” (74 percent) and “lack of stability” (75 percent) often or almost always affect the quality of their work. These figures are substantially higher than the average for the public service overall, which reported 41 percent and 34 percent, respectively. In addition, CIDA also experiences significant changes in its senior managers from year to year. In its Geographic Programs Branch, since 2002, the average has been about 30 percent per year, and, in the Policy Branch (which develops policy for the Agency), it has been about 45 percent.

**8.74** In light of this, management processes that can sustain implementation of commitments and directions over time are especially important. We examined whether management had

- established specific action plans coupled with quantifiable targets and performance indicators;
- assigned clear responsibility and accountability for implementation;
- monitored progress of implementation and performance against expectations; and
- made adjustments when performance was not meeting expectations.

#### **A comprehensive strategy for the Agency to achieve aid effectiveness is needed**

**8.75** As described in previous sections of this chapter, CIDA has embraced the principles of alignment, donor harmonization, and the use of program-based approaches in its programs in the countries we examined. In our view, the release of the 2002 Policy Statement on Strengthening Aid Effectiveness has influenced this, bearing in mind that CIDA is working in an environment where the donor community at large is embracing these same ideas.

**8.76** After it put this statement in place, CIDA initiated some actions to align its geographic programming with aid effectiveness principles. However, these actions were selective and the Agency undertook them without a comprehensive strategy. In some cases, CIDA began initiatives but never tracked them to their completion. In other cases, the Agency never developed action plans at all. Much of the direction staff received from management was qualitative in nature. The Agency did not develop quantitative targets or measures even for areas where it made sense to do so, such as for the degree of sector focus it wanted to achieve or the level of projects it should fund through program-based approaches. There is little evidence that senior managers reviewed the implementation of the 2002 Policy Statement on a systematic basis.

**8.77** CIDA's support for program-based approaches, in particular, has been neither uniform nor timely. While the Agency put some initiatives in place to guide the increased use of these approaches, at the time of this audit, other building blocks that we consider fundamental to the effective rollout of this new direction in delivering aid remained in draft form or had never been developed. Administrative and project approval requirements for this new way of delivering aid have not been updated.

**8.78** In our view, many of the weaknesses described in this chapter can be traced to the absence of a master plan for achieving the Agency's aid effectiveness commitments and the absence of management processes needed to sustain implementation over time. At the time of this audit, CIDA advised us of another renewed management effort toward policy implementation that was under way and that included an early draft of an aid effectiveness implementation plan. The Agency will have to ensure that it sustains any established management practices, and that the new effort can withstand some of the challenges we observed in this audit.

**8.79 Recommendation.** The Canadian International Development Agency should establish and implement a comprehensive strategy for achieving its aid effectiveness commitments. To ensure that such a strategy can withstand changes in personnel and the passage of time, the Agency should

- clearly document action plans, targets, and performance indicators;
- assign clear accountability for their implementation;
- evaluate and monitor progress against targets and performance indicators on an annual basis; and
- communicate its strategy publicly and report on its implementation externally, as appropriate.

**The Agency's response.** Agreed. The Agency's Aid Effectiveness Action Plan, approved in July 2009, consolidates guidance for meeting the Agency's commitments to aid effectiveness. It is applicable to all of the Agency's programs, as well as corporate and policy functions. It is accompanied by "Accountability and Monitoring Guidelines" that clarify accountabilities and tracking methodology for each action and target of the plan. Accordingly, monitoring will be performed annually, as a component of the Agency's regular program monitoring process. Key elements of the plan and related progress will be communicated to Canadians through the Agency's annual performance reports and its website.

## Conclusion

**8.80** The Canadian International Development Agency (CIDA) has not put in place the required management processes to implement and monitor its aid effectiveness commitments concerning alignment, harmonization, the use of program-based approaches, and sector focus in the countries it focuses on. The Agency initiated some actions to align its geographic programming with aid effectiveness principles, but these actions were selective and the Agency undertook them without a comprehensive strategy. The Agency has not established benchmarks and performance targets that would allow it to assess the extent to which it is meeting its commitments. There is little evidence that senior managers reviewed the implementation of the 2002 Policy Statement on Strengthening Aid Effectiveness on a systematic basis.

**8.81** CIDA's main documents for planning geographic programming—country programming development frameworks—reflected the principles of aid effectiveness when they were written. However, the frameworks for the countries we examined have expired and the process of preparing and maintaining them has been discontinued. The Agency is struggling to develop a new planning process. We were unable to conclude whether the new process will meet CIDA's aid effectiveness commitments because the process is in transition and the status of interim plans is uncertain.

**8.82** CIDA's project selection and delivery in the field has addressed recipient countries' needs, and Agency personnel are actively promoting donor harmonization. The mix between traditional and newer programming approaches varies from country to country. CIDA field staff are looking for opportunities to maintain or increase their use of newer programming approaches, as appropriate. While the Agency can demonstrate a rationale for the projects it funds, its choices are not based on an understanding of its strengths relative to other donors. CIDA identified potential risks and mitigating measures in its project planning documents and carried out various monitoring activities for these risks.

**8.83** The long-term nature of international development requires stability and predictability of programming. In our view, in recent years, frequent changes in policy direction and substantial turnover of senior managers have posed significant challenges to CIDA in achieving its aid effectiveness agenda.

## About the Audit

All of the audit work in this chapter was conducted in accordance with the standards for assurance engagements set by The Canadian Institute of Chartered Accountants. While the Office adopts these standards as the minimum requirement for our audits, we also draw upon the standards and practices of other disciplines.

### Objectives

The objective of the audit was to determine whether the Canadian International Development Agency (CIDA) applied the major principles and programming approaches of aid effectiveness it committed to when delivering assistance in selected countries of concentration. We expected that CIDA had

- put in place adequate management processes to guide and monitor its commitments,
- applied them in planning country programs;
- selected projects based on sound rationale and timeliness, and
- monitored the implementation of projects.

### Scope and approach

The major principles and programming approaches we selected for audit were drawn from the Agency's 2002 Policy Statement on Strengthening Aid Effectiveness and the its reports on plans and priorities and included

- alignment of aid with the countries' needs and priorities,
- harmonization with other donors and among branches in the Agency,
- increased use of new programming approaches, and
- greater sectoral focus.

The audit was conducted at both CIDA headquarters in Gatineau, Canada and at missions abroad.

For individual country planning and project audit inquiries, we concentrated our audit primarily on the Geographic Programs Branch country desks of Bangladesh, Ethiopia, Ghana, Honduras, and Vietnam. These 5 countries are on CIDA's list of 20 countries of concentration. In comparison to that provided in fragile states or countries in crisis such as Afghanistan, Sudan, and Haiti, the aid that the Agency delivered in these countries was considered by us to be typical of the context in which it operates. We also considered geographic dispersion, the size of the aid program, and the use of a variety of programming instruments when we selected countries. We audited all 5 country programs at CIDA headquarters in Canada and, in addition, we visited Bangladesh, Ethiopia, and Honduras missions abroad. We examined how the Agency develops its long-term plans, taking into account the unique and specific context of the countries in which it operates. We examined various planning and project documentation. We conducted interviews with heads of aid and country program managers, various CIDA senior managers and staff, members of the program support units, recipient governments, other donors, and other stakeholders.

We selected 5 projects from each of the 5 countries to audit individually for a total of 25 projects. We selected the projects from information CIDA provided, with the criteria of having the first project disbursement in calendar year 2003 or afterward—subsequent to the 2002 Policy Statement on Strengthening Aid Effectiveness. We selected different sizes of projects, and those delivered by traditional and program-based approaches, across different sectors. Our project examination included review and analysis of documents; discussions with project officers; and, for those projects we visited, observations and discussions with project stakeholders, including executing agencies, government officials, other donors, and recipients.

We excluded some aspects of the Agency's aid effectiveness agenda from the scope of this audit, including, for example, the Agency's commitments to enhancing its field presence (decentralization), to untying aid, and to concentrating on fewer countries.

We did not audit project results because it takes a long time for benefits to emerge and because of measurement challenges and difficulties in attributing results to specific initiatives. These challenges are typical of the nature of development aid and not necessarily specific to CIDA.

## Criteria

Listed below are the criteria that were used to conduct this audit and their sources.

Criteria	Sources
<b>Implementation of the Agency's 2002 Policy Statement on Strengthening Aid Effectiveness</b>	
<ul style="list-style-type: none"> <li>• We expected that the Canadian International Development Agency (CIDA) would have established actions, targets, and indicators of performance for the 2002 policy statement commitments.</li> <li>• We expected that the Agency would have assigned clear responsibilities and accountabilities.</li> <li>• We expected that CIDA would have put in place practices to monitor progress and implementation.</li> <li>• We expected that the Agency would have made appropriate adjustments to its implementation approach as needed.</li> </ul>	<ul style="list-style-type: none"> <li>• The Treasury Board of Canada Secretariat Management Accountability Framework</li> <li>• CIDA's 2002 Policy Statement on Strengthening Aid Effectiveness</li> </ul>
<b>Country planning</b>	
<p>We expected that the Agency's country plans would have taken into account key aid effectiveness principles and commitments:</p> <ul style="list-style-type: none"> <li>• alignment</li> <li>• harmonization</li> <li>• newer programming approaches</li> <li>• greater sector focus</li> </ul>	<ul style="list-style-type: none"> <li>• CIDA's 2002 Policy Statement on Strengthening Aid Effectiveness</li> <li>• CIDA's Guide for Preparing a Country Development Programming Framework</li> </ul>
<b>Project selection and oversight</b>	
<p>We expected that the Agency's project selection would be consistent with country strategies and aid effectiveness principles.</p>	<ul style="list-style-type: none"> <li>• CIDA's 2002 Policy Statement on Strengthening Aid Effectiveness</li> <li>• Country Development Programming Frameworks</li> </ul>
<p>We expected that CIDA would have performed appropriate and timely monitoring and made adjustments, as required.</p>	<p>Performance measurement frameworks, including project agreements</p>

Management reviewed and accepted the suitability of the criteria used in the audit.

#### **Period covered by the audit**

The period audited for this chapter spans from September 2002, when the Agency's Policy Statement on Strengthening Aid Effectiveness came into effect, to 15 May 2009. Review of individual projects was based on a selection of projects that were operational between January 2003 and December 2008.

Audit work for this chapter was substantially completed 15 May 2009.

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## Appendix List of recommendations

The following is a list of recommendations found in Chapter 8. The number in front of the recommendation indicates the paragraph where it appears in the chapter. The numbers in parentheses indicate the paragraphs where the topic is discussed.

Recommendation	Response
<b>Planning and support of country programs</b>	
<p><b>8.39</b> To support the use of program-based approaches, the Canadian International Development Agency should set clear performance targets regarding how much of its aid should be delivered through these approaches. (8.33–8.38)</p>	<p>Agreed. The Agency finalized an Aid Effectiveness Action Plan in July 2009, which identifies measurable actions with accompanying targets for aid effectiveness commitments, including program-based approaches. As committed in the Action Plan, the Agency will strive to meet its program-based approach target of 50 percent when appropriate conditions are met, as defined in the policy on program-based approaches.</p>
<p><b>8.40</b> The Canadian International Development Agency should undertake a comprehensive evaluation of its use of program-based approaches with a view to determining whether they are achieving the Agency's goals. (8.33–8.38)</p>	<p>Agreed. As mandated by the Treasury Board, the Agency will provide a review of program-based approaches by 31 March 2010 that assesses the effectiveness of these approaches. In preparation for this review, it is completing evaluations of country programs with a significant program-based approach component.</p>

**Recommendation****Response**

**8.47** To ensure transparent and predictable long-term planning, the Canadian International Development Agency should

- finalize the new planning process for all countries included within its Geographic Programs Branch;
- ensure that future planning is based on sound analysis, taking into account recipient country needs and capacities and CIDA's relative strengths, and reflects an integrated whole-of-Agency perspective;
- provide ongoing oversight of the process's application and renew country plans, under defined and monitored conditions; and
- communicate approved country plans to development partners, including recipient governments, as appropriate.

(8.41–8.46)

Agreed. A new planning process for geographic programs has been finalized. Country Strategies for each of the 20 countries of focus, which provide the strategic direction for programs, have received ministerial direction. Summaries of these strategies will be posted on the Agency's website by the end of 2009.

These documents contain an analysis of the recipient country needs as identified in their Poverty Reduction Strategy and National Development Plan. Canada's value-added in addressing these needs is based on such factors as the Agency's past experience in the country and its relative programming strengths compared to other donors and partners. The whole-of-Agency approach is also reflected, where appropriate.

The direction identified in country strategies is implemented by the responsible program through five-year programming and planning frameworks, or Country Development Programming Frameworks (CDPFs), which will be completed by March 2010. They will be based on revised CDPF guidelines that will be put in place by the end of October 2009.

Country strategies will be reviewed annually to assess any significant changes to the country's development context and program performance. If required, adjustments will be made and reflected in changes to CDPFs, and the country strategies posted on the Agency's website.

Recommendation	Response
<p><b>8.54</b> To achieve greater sectoral focus, the Canadian International Development Agency should</p> <ul style="list-style-type: none"> <li>clarify, for each of its priority sectors, the specific programming areas that it will support in the future as well as those that it will not;</li> <li>set measurable expectations and targets for country programs to achieve; and</li> <li>monitor and report on progress against these expectations and targets.</li> </ul> <p>(8.48–8.53)</p>	<p>Agreed. To achieve greater sectoral focus, the Minister of International Cooperation announced new thematic priorities in May 2009. These thematic priorities are: increasing food security, stimulating sustainable economic growth, and securing the future of children and youth.</p> <p>The 2009 country strategies reflect greater programming focus on, and within, these thematic priorities. Following consultations in Canada and in focus countries, the Agency will complete Agency-wide strategies for each of these thematic priorities by early 2010.</p> <p>Measurable expectations and performance benchmarks will be set in comprehensive development programming frameworks as appropriate. The Agency will monitor and report on these expected results. Annual program performance reports will examine the extent to which key expected results have been achieved. These results will contribute to the formulation of corporate plans and reports, such as the Report on Plans and Priorities and the Departmental Performance Report.</p>
<p><b>8.56</b> To support achieving sector focus and building its relative strengths, the Canadian International Development Agency should</p> <ul style="list-style-type: none"> <li>define the skills and expertise it requires to support its priority sectors and specific programming areas; and</li> <li>determine and implement the means it will use to provide those skills and expertise.</li> </ul> <p>(8.55)</p>	<p>Agreed. The Agency is in the process of defining the necessary skills and expertise required to support programming and delivery of initiatives within these thematic priorities. The Agency will ensure that a robust cadre of specialists is in place through recruitment, training and ongoing professional development. This work will be completed by March 2010.</p>

## Recommendation

## Response

**Project selection and monitoring**

**8.64** To support the use of program-based approaches, the Canadian International Development Agency should

- define the specific conditions under which it will or will not participate in such approaches;
- clarify the types of assessments of national systems and capacities, as well as of project-related risks, it requires to have undertaken, alone or in collaboration with other donors, prior to agreeing to use a program-based approach; and
- institute processes to ensure the systematic and uniform application of such assessments.

(8.59–8.63)

**8.79** The Canadian International Development Agency should establish and implement a comprehensive strategy for achieving its aid effectiveness commitments. To ensure that such a strategy can withstand changes in personnel and the passage of time, the Agency should

- clearly document action plans, targets, and performance indicators;
- assign clear accountability for their implementation;
- evaluate and monitor progress against targets and performance indicators on an annual basis; and
- communicate its strategy publicly and report on its implementation externally, as appropriate.

(8.75–8.78)

Agreed. The Agency finalized a Policy on Program-Based Approaches (PBAs) in July 2009. The policy articulates the circumstances under which it is appropriate to use PBAs. It is supported by the Agency's Policy on Fiduciary Risk Assessment (Part 1), and Operational Guide on PBAs. These documents provide guidance to assess the capacity of national systems and identify assessment tools for national systems, such as the Public Expenditures and Financial Accountability diagnostic assessment. These tools enable the Agency to better identify and manage project-related risks. The Agency recently further clarified the approach and tools to assess and mitigate project-related risks in PBAs, by introducing updates in the Business Process Roadmap and Risk Management Strategy Guide for Treasury Board submissions. The Agency will also institute a process to ensure the systematic and uniform application of the assessment tools by the end of 2009.

Agreed. The Agency's Aid Effectiveness Action Plan, approved in July 2009, consolidates guidance for meeting the Agency's commitments to aid effectiveness. It is applicable to all of the Agency's programs, as well as corporate and policy functions. It is accompanied by "Accountability and Monitoring Guidelines" that clarify accountabilities and tracking methodology for each action and target of the plan. Accordingly, monitoring will be performed annually, as a component of the Agency's regular program monitoring process. Key elements of the plan and related progress will be communicated to Canadians through the Agency's annual performance reports and its website.

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